

1 UNITED STATES DISTRICT COURT
2 FOR THE NORTHERN DISTRICT OF OHIO
3 EASTERN DIVISION

4 IN RE: NATIONAL) MDL No. 2804
5 PRESCRIPTION OPIATE)
6 LITIGATION,) Case No.
7) 1:17-MD-2804
8)
9 THIS DOCUMENT RELATES TO) Hon. Dan A.
10 ALL CASES) Polster
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Tuesday, January 15, 2019

HIGHLY CONFIDENTIAL - SUBJECT TO FURTHER
CONFIDENTIALITY REVIEW

Videotaped Deposition of GREGORY BEAM,
held at 4206 South J.B. Hunt Drive, Rogers,
Arkansas, commencing at 8:36 a.m., on the
above date, before Debra A. Dibble, Certified
Court Reporter, Registered Diplomate
Reporter, Certified Realtime Captioner,
Certified Realtime Reporter and Notary
Public.

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17 GOLKOW LITIGATION SERVICES
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1 PROCEEDINGS

2 (January 15, 2019 at 8:36 a.m.)

3 THE VIDEOGRAPHER: We are now

4 on the record. My name is

5 Chris Ritona. I am the videographer

6 for Golkow Litigation Services.

7 Today's date is January 15th, 2019.

8 The time is approximately 8:36 a.m.

9 This video deposition is being held in

10 Rogers, Arkansas, at Mitchell

11 Williams, 4206 South J.B. Hunt Drive,

12 Suite 200 in the matter of National

13 Prescription Opioid Litigation MDL

14 No. 2084, Case No. 17-MD-2084 in the

15 United States District Court, Northern

16 District of Ohio, Eastern Division.

17 The deponent today is Greg

18 Beam. Will all counsel please

19 identify themselves for the record?

20 MR. ECKLUND: Good morning.

21 Don Ecklund from Carella Byrne on

22 behalf of plaintiffs in the MDL.

23 MR. GILFILLAN: David Gilfillan

24 from Carella Byrne on behalf of

25 plaintiffs.

1 MR. CECCHI: Jim Cecchi at
2 Carella Byrne on behalf of plaintiffs.

3 MR. VO: Caley Vo from Wright,
4 Lindsey & Jennings on behalf of
5 McKesson.

6 MR. STALLINGS: Evan Stallings
7 with Barber Law Firm on behalf of
8 Cardinal Health.

9 MR. MORRIS: Paul Morris from
10 Walmart legal.

11 MR. MITCHELL: Greg Mitchell,
12 Jones Day on behalf of Walmart.

13 MR. VARNADO: Jason Varnado
14 with Jones Day on behalf of Walmart
15 and the witness.

16 THE VIDEOGRAPHER: Will all
17 counsel --

18 MR. HALPERN: Rick Halpern,
19 Marcus & Shapira on behalf of HBC.

20 MS. HOSMER: Heather Hosmer of
21 Arnold & Porter on behalf of Endo and
22 Par defendants.

23 MS. MARINO: Christina Marino
24 of Tucker and Ellis appearing on
25 behalf of Johnson & Johnson and

1 Janssen.

2 MR. ANDERSON: Jon Anderson,
3 Jackson Kelly on behalf of
4 AmerisourceBergen.

5 VIDEOGRAPHER: The court
6 reporter today, Debbie Dibble, will
7 please swear in the witness.

8 GREGORY BEAM,
9 having first been duly sworn, was examined
10 and testified as follows:

11 DIRECT EXAMINATION

12 BY MR. ECKLUND:

13 Q. Good morning, Mr. Beam.
14 Moments ago the court reporter asked you to
15 take an oath. What does that oath mean to
16 you today?

17 A. That means under perjury of
18 law, I am bound to tell the truth.

19 Q. And the whole truth?

20 A. The whole truth.

21 Q. Everything that you can recall,
22 your entire recollection?

23 A. Yes, sir.

24 Q. So throughout the day, that's
25 the expectation.

1 Full disclosure, whatever you
2 can remember. Fair?

3 A. Fair.

4 Q. Okay. Have you ever been
5 deposed before?

6 A. Sir?

7 Q. Have you ever been deposed
8 before? First deposition?

9 A. I have.

10 Q. How many times?

11 A. Multiple times. I can't recall
12 an exact.

13 Q. More than ten?

14 A. In criminal and civil, yes.

15 Q. More than 20?

16 A. No.

17 Q. Okay. So you're fairly
18 familiar with the process?

19 A. Yes, sir.

20 Q. Throughout the day I'll be
21 asking you questions. Your attorney may at
22 points in time interject an objection. If we
23 could both try to give breaks in between when
24 we're speaking it will help the court
25 reporter take a record. If you don't

1 understand a question, just let me know.

2 I'll try to rephrase it. If you answer the
3 question, I'll assume you understood what I
4 was asking you about. Is that fair?

5 A. That's fair.

6 Q. During the day if you want to
7 take a break, you need to stretch your legs,
8 you can stand up. I'm not concerned about
9 that. Any pending questions, we can answer
10 it and we'll try to get you that break. Or I
11 might try to finish up a line of examination.

12 Is that fair?

13 A. Yes, sir.

14 Q. Any reason today why you --

15 MS. HOSMER: I'm sorry to
16 interrupt. There is about a 90-second lag
17 time with the online video. Is there any way
18 to fix that?

19 (Discussion off the record.)

20 Q. (BY MR. ECKLUND) Okay. So, if
21 at any point during the deposition you think
22 you may need to review a document when you're
23 going to answer a question that I'm going to
24 ask you, there's a chance that I might have
25 the document in the box that we brought here

1 today. There's also a chance that your
2 lawyers may be able to locate that document
3 if you describe it. So if you need
4 something, say something about the document
5 you need. Describe it. What was it? Is it
6 an Excel? Is it a PowerPoint? Is it an
7 email? Okay?

8 A. Yes, sir.

9 Q. Policies. Whatever it may be.
10 And we'll try to get that for you. Okay?
11 This isn't intended to be a memory
12 examination. It's intended to be a
13 fact-finding examination.

14 So if there's a document that's
15 going to help you answer questions for us
16 today, we want you to have those documents.
17 But it's on you to tell us what that document
18 looks like and that you need it.

19 Is that fair?

20 A. Yes, sir.

21 Q. What did you do to prepare for
22 your deposition today?

23 A. I met with counsel.

24 Q. How many times?

25 A. Over a period of three days.

1 Q. In person? Telephone?

2 A. In person.

3 Q. Video trainings?

4 A. Video trainings?

5 Q. Did you watch any videos about
6 how to sit for a deposition?

7 A. No.

8 Q. Read any manuals about how to
9 answer questions?

10 A. No.

11 Q. Review any of your documents
12 within your files to prepare for today?

13 A. We did.

14 Q. Approximately how long did you
15 spend reviewing documents to get ready for
16 today's deposition?

17 A. Total time?

18 Q. Total time?

19 A. Approximately 15, 16 hours.

20 Q. When did you start that
21 process?

22 A. Last Thursday.

23 Q. Did you meet the attorneys
24 before or after you started that process?

25 A. That was during those meetings

1 with the attorneys.

2 Q. Okay. What's your current
3 title within Walmart?

4 A. I'm -- current title is
5 director of global investigations.

6 Q. And when did you get that
7 title?

8 A. Approximately 2011.

9 Q. Let me hand you a document
10 that's going to be marked as Exhibit 1.

11 You may have seen these, or at
12 least portions of them. These are
13 performance evaluations from within Walmart.

14 (Walmart-Beam Deposition
15 Exhibit 1, Annual Performance Reviews
16 for Gregory Beam, WMT_MDL_000057274-
17 57362, was marked for identification.)

18 MR. CECCHI: We'll refer to
19 them as Beam 1 and then seriatim after
20 that.

21 Q. (BY MR. ECKLUND) So why don't
22 you take a moment to peruse them quickly.
23 You don't need to review the whole thing
24 closely.

25 MS. HOSMER: Will you read the

1 Bates number into the record, please?

2 MR. ECKLUND: 57274. And it
3 ends at 57362.

4 MS. HOSMER: Thank you.

5 MR. ECKLUND: You're welcome.

6 Mr. Beam, why don't you just
7 skip to the end, the last page or two,
8 and just verify this is a complete
9 collection of all of your evaluation
10 forms.

11 MR. VARNADO: Object to the
12 form.

13 THE WITNESS: I see fiscal
14 years '12 through '18.

15 Q. (BY MR. ECKLUND) Are any
16 missing?

17 A. None between those years, no,
18 sir.

19 Q. Does it seem incomplete in any
20 way?

21 A. I do not detect anything
22 incomplete at this time.

23 Q. Great.

24 Okay. Let's start on the first
25 page.

1 February 1st, 2011. Is that
2 when you started at Walmart?

3 A. No, sir.

4 Q. When did you start at Walmart?

5 A. I started October of 2006.

6 Q. And what was your title in
7 October 2006?

8 A. In October 2006, I hired as a
9 drug diversion coordinator.

10 Q. And was that your first
11 occasion as a drug diversion coordinator, or
12 did you come from another company with that
13 experience?

14 A. I came from another company as
15 a district loss prevention supervisor.

16 Q. Which company?

17 A. Walgreens.

18 Q. And within Walgreens, were you
19 responsible for drug diversion?

20 A. Among other things, yes.

21 Q. What other responsibilities did
22 you have within Walgreens?

23 A. We had theft. Shrink. As well
24 as HR and employees relations matter.

25 Q. When you talk about theft, are

1 you talking specifically about theft of
2 controlled substances or theft generally?

3 A. Theft in general.

4 Q. And what do you mean by
5 "shrink"?

6 A. "Shrink" meaning stores that
7 are losing product without sales.

8 Q. And that's a variation of
9 theft?

10 A. It's also a variation of a
11 combination of other things. It could be
12 shrinkage. It could be customer theft. And
13 it could also be reduction in price,
14 blowouts, sale blow costs. There's a lot of
15 different things that contribute to shrink.

16 Q. Okay.

17 And what was your role
18 concerning HR?

19 A. These were HR investigations
20 that were telephoned in to corporate
21 headquarters. Corporate headquarters would
22 in turn reassign those to an HR as well as
23 loss prevention supervisor for that location.

24 Q. And just so that the record is
25 clear on all of this, because I haven't asked

1 you and I probably should have, can I have
2 the benefit of your full educational history
3 after high school?

4 A. Sure. I graduated bachelor of
5 science, criminal justice and security
6 management, Capella University.

7 Q. Any certifications following
8 college?

9 A. No, sir.

10 Q. Additional graduate school?

11 A. No, sir.

12 Q. Military service?

13 A. Military service, yes.

14 Q. When did you serve?

15 A. From 1979 to 1999.

16 Q. When did you graduate from
17 college?

18 A. I graduated from college 2014,
19 finally.

20 Q. When did you start college?

21 A. Gosh, 2006.

22 Q. Okay. So you left high school,
23 went into the armed services, and which
24 branch?

25 A. Air Force.

1 Q. Air Force. And you were in the
2 Air Force for approximately 20 years?

3 A. Correct.

4 Q. And when you left, what was
5 your -- what was your title and what were you
6 doing within the Air Force?

7 A. I was a special agent,
8 Air Force Office of Special Investigations.

9 Q. And what type of investigations
10 were you doing within the Air Force?

11 A. A variety of investigations.
12 Criminal investigations ranging from rape,
13 homicides, theft.

14 Q. Did you receive any training
15 within the Air Force to conduct those
16 investigations?

17 A. I did.

18 Q. What type of training did you
19 receive?

20 A. It was 12-week investigations,
21 basic investigations academia course.

22 Q. Any continuing education
23 following the 12-week program you started
24 with?

25 A. Yes. We had advanced

1 investigation school. Also went to fire bomb
2 and arson school. Also had completed
3 protective services operations school.

4 Q. What was your rank when you
5 left the Air Force?

6 A. I was an E7.

7 Q. E7?

8 A. E7, master sergeant.

9 Q. Master sergeant. Thank you.

10 MS. HOSMER: I'm sorry to
11 interrupt. I can't hear the witness
12 at all.

13 MS. MARINO: I'm also having
14 difficulty hearing.

15 Q. (BY MR. ECKLUND) So let's talk
16 a little bit about the training you received
17 more than 20 years ago concerning an
18 investigation in advanced investigation
19 school.

20 At that time, what were you
21 told are some of the core principles of a
22 thorough investigation?

23 MR. VARNADO: Object to the
24 form.

25 THE WITNESS: First we go

1 through, and you'd want to identify
2 the crime scene. And at that
3 particular point, you take meticulous
4 notes and you photograph the scene or
5 draft it out.

6 Q. (BY MR. ECKLUND) Do you share
7 the meticulous notes with other people?

8 A. As lead investigator, you would
9 share that information with others arriving
10 on the scene and make assignments as
11 necessary.

12 Q. So documentation is important
13 to a thorough investigation?

14 A. Documentation is important to a
15 criminal investigation, yes.

16 Q. I didn't ask whether it was
17 important to a criminal investigation,
18 particularly. I'm just talking just broadly,
19 is documentation important to a thorough
20 investigation?

21 MR. VARNADO: Object to the
22 form.

23 THE WITNESS: Documentation
24 is -- can be very important to an
25 investigation depending on where we

1 see the outcome.

2 Q. (BY MR. ECKLUND) How would
3 documentation not be important to an
4 investigation?

5 A. There are some things that are
6 not going to be material to an investigation.

7 Q. When you left the Air Force in
8 1999, what did you do at that point?

9 A. At that time I took a 90-day
10 break and was hired with Walgreens.

11 Q. So from 1999, you took a short
12 vacation for about three months, and then
13 found your footing at Walgreens, and you
14 stayed there until 2006?

15 A. Yes, sir.

16 Q. And when you started in 1999 --
17 it was 1999 when you started Walgreens?

18 A. Approximately 2000.

19 Q. Approximately 2000.

20 When you started at Walgreens
21 in approximately 2000, what was your title
22 when you began?

23 A. Loss prevention supervisor.

24 Q. And when you left in 2006 --

25 A. It was loss prevention

1 supervisor.

2 Q. And throughout your period at
3 Walgreens, were you responsible for oversight
4 or supervision of any other employees?

5 A. No.

6 Q. And did you have a direct-line
7 person to whom you reported?

8 A. I did.

9 Q. And who was that?

10 A. That was Jim Odom.

11 Q. And what was Jim Odom's title?

12 A. He was a regional loss
13 prevention supervisor.

14 Q. Were you responsible for just a
15 particular region within the country?

16 A. I was responsible for a
17 particular market.

18 Q. Which market?

19 A. Initially, I had started in
20 Minneapolis-St. Paul. So I managed that --
21 or worked with the manage -- the district
22 management staff in that area for
23 approximately two years. And then moved to
24 Atlanta. And that market was emerging, so I
25 was responsible for that area up until the

1 time I came on with Walmart.

2 Q. And in 2006, you transitioned
3 from Walgreens to Walmart?

4 A. Correct.

5 Q. Okay. And where did you begin
6 working within Walmart? What part of the
7 country?

8 A. Here.

9 Q. In Bentonville or Rogers?

10 A. In Rogers.

11 I'm sorry, Bentonville. Home
12 office.

13 Q. Okay. So you start in
14 Bentonville, home office, and at that point
15 you had a somewhat different job
16 responsibility than what you had at
17 Walgreens; correct?

18 A. Correct.

19 Q. Okay. How did you become
20 trained in your new role and responsibility
21 within Walmart?

22 A. That was -- came from both
23 personal knowledge as well as experience in
24 some of the drug investigations that were
25 completed as special agent with OSI, as well

1 as conducting similar pharmacy-related
2 investigations within Walgreens.

3 Q. Okay. And when you began at
4 Walmart, were you focused on one category of
5 pharmacy products, all categories of pharmacy
6 products?

7 A. We were focused on pharmacy
8 operations in total, which means all
9 categories of pharmacy products and process.

10 Q. And did you have interactions
11 with the office of the inspector general in
12 your role within Walmart when you began?

13 MR. VARNADO: Object to the
14 form.

15 THE WITNESS: Not that I
16 recall.

17 (Phone interruption.)

18 VIDEOGRAPHER: 8:54. We are
19 off the video record.

20 (Recess taken, 8:57 a.m. to
21 8:58 a.m.)

22 THE VIDEOGRAPHER: 8:58. We
23 are on the video record.

24 Q. (BY MR. ECKLUND) Mr. Beam,
25 before the break, which was caused by hold

1 music, we were talking about the office of
2 the inspector general, and you didn't have
3 any specific recollection of any interactions
4 with the OIG concerning any pharmaceutical
5 products sold within Walmart. Do you recall?

6 MR. VARNADO: Object to the
7 form.

8 THE WITNESS: And I'm -- can
9 you help me understand what you mean?

10 Q. (BY MR. ECKLUND) Right before
11 the break, I was asking you whether you had
12 any interactions with the office of the
13 inspector general. Are you familiar with the
14 office of the inspector general?

15 A. Yes.

16 Q. What is your understanding of
17 what the office of the inspector general does
18 as concerns pharmaceutical fraud prevention?

19 A. The office of the inspector
20 general generally sets policy on what the
21 national opioid and national drug control
22 policy will be.

23 Q. Do you have an understanding of
24 what that policy is today?

25 MR. VARNADO: Object to the

1 form.

2 THE WITNESS: I have vague -- I
3 have a working understanding.

4 Q. (BY MR. ECKLUND) Can you share
5 with us your working understanding of what
6 the policies of the OIG are?

7 A. To reduce opioid consumption
8 across the United States, as well as to
9 reduce the prescribing of such drugs.

10 Q. And how does that differ with
11 the policy goals of the DEA? As concerns
12 opioid consumption across the United States?

13 MR. VARNADO: Object to the
14 form.

15 THE WITNESS: As of that, I'm
16 not prepared to answer. I don't work
17 with the DEA.

18 Q. (BY MR. ECKLUND) Okay. Have
19 you ever had any other occasion to work with
20 the DEA in your roles within Walmart?

21 A. I had worked with DEA on a
22 limited basis.

23 Q. In what ways have you worked
24 with the DEA?

25 A. In conversations, in reporting,

1 and also in fulfilling subpoenas and
2 requests.

3 Q. Okay. Let's turn first to
4 conversations. Have those conversations
5 occurred in-person? Or over the phone?

6 A. Mainly over phone.

7 Q. Do you recall any of the names
8 of the individuals you've spoken with from
9 DEA?

10 A. Off the top of my head, no.
11 Because it was in multiple areas.

12 Q. Okay. What are the areas in
13 which you've spoken with DEA representatives?

14 A. In recollection, Minnesota,
15 Arizona.

16 Q. Oh, I see. I see. You're
17 talking about multiple geographical areas.

18 A. Correct.

19 Q. Okay. What about topical
20 areas? What were the topics that you
21 discussed with DEA?

22 A. In these, these were business
23 calls, so these were calls where I'm
24 outlining these -- these are facts of what we
25 have discovered in an investigation up to

1 this point. And getting -- attempting to get
2 DEA to participate in investigations on
3 certain matters.

4 Q. Okay. And you also mentioned
5 reporting. Your conversations with them
6 concerning reporting. What types of reports
7 were you discussing with the DEA?

8 A. If they -- there were questions
9 around, for example, a DEA Form 106, and
10 there are administrative reviews that DEA
11 conducts inside of our pharmacies, which are
12 all licensed by the DEA. Then sometimes they
13 have questions regarding records,
14 recordkeeping, also inventory. So quite
15 often those agents, through our practice
16 compliance group, will contact us for a
17 fulfillment report.

18 Q. Okay. And just so the record
19 is clear, the Form 106 that you're
20 describing, that's the DEA's form concerning
21 theft loss for controlled substances?

22 A. That is correct.

23 Q. Are you personally responsible
24 for completion of the Form 106?

25 A. No, sir.

1 Q. Who is responsible for the
2 completion of Form 106 within Walmart?

3 MR. VARNADO: Object to form.

4 THE WITNESS: That would be our
5 compliance department.

6 Q. (BY MR. ECKLUND) Do you work
7 with individuals within the compliance
8 department?

9 A. We work with them, but we are
10 separately housed from them. We collaborate.

11 Q. Okay. So there's open channels
12 of communication between your department.
13 And what department would that be considered?

14 A. Global investigations.

15 Q. So there's open channels of
16 communications between global investigations
17 and compliance?

18 A. On those business-related
19 matters, yes, sir.

20 Q. And are there open
21 communications between your department and
22 legal?

23 A. Yes, sir.

24 Q. And same answer for regulatory?

25 MR. VARNADO: Object to the

1 form.

2 THE WITNESS: Well, in our
3 world, the compliance is a part of the
4 regulatory.

5 Q. (BY MR. ECKLUND) Okay. So
6 compliance is a subpart of regulatory?

7 A. Compliance in a regulatory arm
8 would be a separate coordination. We look to
9 them for regulatory guidance.

10 Q. Okay. And do you also interact
11 with the individuals required to address
12 shipping of product to the stores? And which
13 department would that be? Is that
14 warehousing? Is it supply? What's the
15 title?

16 A. That is -- that would be
17 logistics.

18 Q. Okay. So logistics.

19 Beyond coordination with
20 compliance and regulatory and legal and
21 logistics, does your department collaborate
22 or communicate with other groups within
23 Walmart?

24 MR. VARNADO: Object to the
25 form.

1 THE WITNESS: We coordinate
2 with compliance, legal, and to some
3 degree logistics.

4 And I am assuming you're
5 putting compliance and regulatory in
6 the same boat?

7 Q. (BY MR. ECKLUND) You told me I
8 should, so yes.

9 A. Okay.

10 Q. So those are all of the
11 departments that you would communicate with?

12 MR. VARNADO: Object to form.

13 THE WITNESS: We coordinate
14 with compliance, legal, and logistics.
15 I'm not obligating myself to
16 regulatory. That is a part of
17 compliance function from our
18 perspective.

19 Q. (BY MR. ECKLUND) All right.
20 Just going through your evaluation, I had a
21 couple of questions about some of the terms
22 within it.

23 So on the first page, 57274,
24 for the benefit of the record, in the
25 Quarter 1 update it says, "All analysts were

1 provided Teradata data access."

2 What's Teradata data access?

3 A. Can you point to the specific.

4 Q. It's the first page.

5 A. First page.

6 Q. Q1 update.

7 A. Got ya.

8 Q. "Teradata access." What is
9 Teradata access?

10 A. Teradata is a database, secure
11 database, in which is housed pharmacy-related
12 data and information.

13 Q. Does it house data and
14 information concerning controlled substances?

15 A. It does.

16 Q. Are you responsible for adding
17 data to that database?

18 A. I am not.

19 Q. Who is responsible for putting
20 the data into that database?

21 MR. VARNADO: Object to the
22 form.

23 THE WITNESS: There are
24 multiple, of which I am not
25 knowledgeable. But that would

1 ultimately be within our ISD division.

2 Q. (BY MR. ECKLUND) What is the
3 ISD division?

4 A. Information systems
5 development.

6 Q. And where are the ISD division
7 employees located?

8 A. Around the country.
9 There are multiple here.

10 Q. Okay.

11 A. In Bentonville.

12 Q. So they're not all operating
13 out of the home office within Arkansas.
14 They're located across the country, but there
15 are found within this area?

16 A. Correct.

17 Q. Arkansas? Okay. And what is
18 the Query-Man tool?

19 A. Query-Man tool is an interface
20 tool that allows to write SQL language, to
21 pull larger amounts of data.

22 Q. And are you trained in using
23 SQL?

24 A. I am not. The analysts are.

25 Q. Okay. Do you rely on any SQL

1 databases?

2 A. We rely on several SQL
3 databases.

4 Q. Do you know the names of any of
5 the SQL databases that you rely on?

6 A. A lot of those are -- in
7 addition to Teradata, we also pull some
8 through for pharmacy alarm reports.

9 Q. What is pharmacy alarm report?

10 A. That shows a pharmacy is opened
11 or closed and armed, meaning as soon as the
12 pharmacy is vacated or closed, the pharmacy
13 has secured that pharmacy area per regulation
14 and law, and ensure that the pharmacy alarm
15 is activated.

16 Q. So it's actually just an --
17 it's not an alarm as in there's some alarming
18 event, it's the actual existence of security
19 alarms?

20 A. Security alarm.

21 Q. Okay.

22 A. That is correct.

23 Q. All right.

24 Next line talks about "Receive
25 download of Tableau to evaluate with

1 Teradata."

2 What's your understanding of
3 what "Tableau" is?

4 A. Tableau is a visualization tool
5 that is very similar to Query-Man in the fact
6 that it allows you to bring data into a
7 system to be able to analyze that data and to
8 produce an output that hopefully is usable
9 information.

10 Q. So my interpretation -- tell me
11 if you disagree with it -- is Tableau is a
12 visual analytical tool that allows you to see
13 a situation more clearly than an Excel chart
14 might allow you to understand it. It gives
15 you a picture, and a picture could be worth a
16 lot more than those numbers and words on a
17 screen.

18 A. Tableau does provide you with a
19 visual depiction of the data. And the issue
20 is going to be defined by the circumstances
21 at the time.

22 Q. Does it aid in understanding?

23 A. It does aid in understanding.

24 Q. Do you also use Alteryx?

25 A. We do use Alteryx.

1 Q. Okay. So, now, Tableau, as I
2 understand it, there's the visual portion of
3 it, and there's also the underlying data that
4 provides the information that allows the
5 picture to form. Is that a fair
6 interpretation of how it works?

7 A. It has to pull data, yes.

8 Q. It's got to load a file with
9 data, and then there's a visual piece of it.
10 Right?

11 A. Correct.

12 Q. Where does the data come from?

13 MR. VARNADO: Object to the
14 form.

15 THE WITNESS: Those data are
16 going to be coming from the same
17 processes that we use to pull the
18 manual data, that produce the
19 spreadsheets.

20 Q. (BY MR. ECKLUND) And does
21 pharmacy information for sales, for products,
22 for what's being dispensed from any one of
23 the regions, that information get into a
24 Tableau file?

25 A. In the recent time frame, yes.

1 Q. What time frame is that?

2 A. Beginning -- we gained access
3 to Alteryx and Tableau in approximately 2014?

4 Q. 2014.

5 A. 2015.

6 Q. For both programs? But in 2011
7 you had Tableau?

8 A. Alteryx came on the heels of
9 Tableau.

10 Q. Okay. But what about Tableau
11 specifically? You had access to that prior
12 to 2014?

13 A. In limited scope.

14 Q. What does that mean? How is it
15 limited?

16 A. Meaning that you could get
17 trial versions, because licensing fee on
18 those were, at that particular point in time,
19 not necessarily available. They have since
20 become there.

21 Q. When did you purchase the
22 licenses?

23 A. I don't recall.

24 Q. And why would they be
25 unavailable to Walmart?

1 A. It's not that they weren't
2 unavailable to Walmart. They were
3 unavailable to the team at that particular
4 point in time, simply because that was a new
5 discovery in analytics.

6 Q. Do you have an understanding of
7 what the licenses for Tableau cost in 2011?

8 A. I do not.

9 Q. Do you have an understanding of
10 what a Tableau license costs today?

11 A. I do not.

12 Q. Do you know whether they would
13 be considered expensive to a company with the
14 market value of Walmart?

15 MR. VARNADO: Object to form.

16 THE WITNESS: I do not.

17 Q. (BY MR. ECKLUND) Do you think
18 that Tableau was developed by a company with
19 the hopes that they would only be able to
20 sell to companies in the top Fortune 50?

21 MR. VARNADO: Object to form.

22 THE WITNESS: That -- I could
23 not answer that question. I don't
24 know what their motivation would be.

25 Q. (BY MR. ECKLUND) Okay. But

1 it's not your expectation that they would
2 have wanted to sell only 100 licenses for
3 Tableau. They would want to sell it broadly
4 across the country; correct?

5 MR. VARNADO: Object to form.

6 THE WITNESS: That wouldn't be
7 my understanding. I do not understand
8 their business model.

9 Q. (BY MR. ECKLUND) But certainly
10 Walmart would have had the resources
11 available to it if it had wanted to purchase
12 a license for Tableau?

13 MR. VARNADO: Object to the
14 form.

15 THE WITNESS: That is not a
16 decision that's made in our
17 department.

18 Q. (BY MR. ECKLUND) I'm not
19 asking whether it's a decision that would
20 have been made within your department. I'm
21 asking whether they had the resources
22 available to purchase a license for Tableau.

23 A. I'm not aware of what resources
24 would have been available at that particular
25 point in time. I don't sit on the finance

1 board.

2 Q. What's Archer?

3 A. Archer is -- it is a
4 commercially procured program, and it is a
5 place to house data.

6 You can manually input
7 information into Archer for tracking
8 purposes, and for historical purposes.

9 Q. Who puts the data into Archer
10 within Walmart?

11 MR. VARNADO: Object to the
12 form.

13 THE WITNESS: Archer is a
14 widely used program, so -- you'd have
15 to be more specific.

16 Q. (BY MR. ECKLUND) Within audit
17 and compliance for controlled substances, who
18 is responsible for putting data into Archer?

19 MR. VARNADO: Object to form.

20 THE WITNESS: That would be the
21 compliance department.

22 Q. (BY MR. ECKLUND) Do you know
23 who within compliance would be entering that
24 data?

25 A. I don't know specifically.

1 Q. Okay. And just shifting back
2 to Alteryx, is Alteryx different from
3 Tableau?

4 A. My understanding? I'm not an
5 expert on either program, but my
6 understanding is Alteryx gives an opportunity
7 to provide or to pull larger data sets, and
8 at a higher level.

9 Q. And you received access to
10 Alteryx and Tableau somewhere in the
11 neighborhood of 2014?

12 A. That would be my estimate.

13 Q. Okay. And what were you --
14 what were you using Alteryx and Tableau for
15 in 2014?

16 A. At that time we were continuing
17 to evolve and trying to improve our
18 processes.

19 Q. What processes?

20 A. Our audit processes and the
21 processes we used to monitor the inventory to
22 detect potential theft of controlled
23 substances.

24 Q. All right. Let's --

25 A. As well as others.

1 Q. Let's focus on audit processes.
2 How would you use Tableau or Alteryx to
3 improve your audit processes?

4 A. By automating those.

5 Q. And how were they automated?
6 What does that mean?

7 A. Up until this -- forgive me.
8 Up until this time, we were -- we were, in as
9 far as 2006, pulling the data, reviewing the
10 data, determining where there might be
11 outliers. And determining where there needs
12 to be further research and further
13 investigative effort applied.

14 At the store, and market level.

15 Those were multiple individual
16 reports pulled from those various data
17 systems.

18 What Alteryx does is pull from
19 those, for a specified time frame, in a most
20 broader scope, pulls them all at one time and
21 assembles that data in a more automated
22 fashion, making the process much more
23 efficient.

24 Q. Okay. And was Tableau or
25 Alteryx used in the same way to improve the

1 processes for detection of potential theft of
2 controlled substances?

3 A. Theft of all substances
4 including controlled.

5 And that was a continuing
6 evolution of our continuous improvement
7 efforts.

8 Q. Were Tableau and Alteryx also
9 used to improve processes for the detection
10 of potential diversion of controlled
11 substances?

12 MR. VARNADO: Object to form.

13 THE WITNESS: Define what
14 you're describing as "diversion."

15 Q. (BY MR. ECKLUND) Do you have
16 an understanding of what "diversion" means?

17 A. I have an understanding of how
18 it is used in these documents.

19 Q. And what is your understanding
20 of what diversion is?

21 A. Diversion as it was known and
22 as it was applied in the documents that are
23 set before you is the theft of merchandising
24 and controlled substances from our
25 pharmacies, either through forged

1 prescriptions or through shelf theft or
2 in-transit losses.

3 Q. And what about abuse of
4 prescription drugs? Does that fall within
5 diversion?

6 A. As it is applied in these
7 documents, it was not a factor that was
8 applied in this understanding.

9 Q. What about unintended use of
10 prescription drugs? Does that fall within
11 diversion?

12 MR. VARNADO: Object to form.

13 THE WITNESS: Unintended use
14 would be -- could you give me a
15 broader explanation of that?

16 MR. ECKLUND: Sure.

17 Q. (BY MR. ECKLUND) A parent is
18 prescribed medication by their doctor. They
19 fill the prescription at a Walmart pharmacy.
20 They leave the pharmacy with the prescription
21 drug. They go home. They use the pills.
22 They don't use all of the pills because they
23 didn't feel they needed all. It could be a
24 pain reliever, whatever you may want to use
25 in this hypothetical. And the children come

1 home and they take the pills. They're not
2 prescribed the pills by the doctor. That
3 would be an unintended use of those pills.

4 Does that fall within your
5 understanding of diversion?

6 A. As it is applied during this
7 time frame, no, sir.

8 Q. Okay. What about illicit
9 purposes? And we could use Xanax or Soma or
10 Valium as examples. Those are Schedule IV
11 controlled substances. Right?

12 A. Yes.

13 Q. The same example. The parent
14 gets prescribed Xanax. And do you have an
15 understanding what Xanax is?

16 A. I do.

17 Q. What's Xanax?

18 A. It's a tranquilizer.

19 Q. And do you have an
20 understanding of what would happen if an
21 individual was to take crushed Xanax and also
22 drink alcohol?

23 A. I personally do not have
24 knowledge of that.

25 Q. I'm not asking you within your

1 personal experience, but do you understand
2 generally what may happen to an individual
3 that would do that?

4 MR. VARNADO: Object to form.

5 THE WITNESS: I have an
6 understanding what it can -- the
7 impact it can have on certain
8 individuals or some individuals, and
9 that is information that I've gleaned
10 through open source media.

11 Q. (BY MR. ECKLUND) What's your
12 understanding, based on your independent
13 investigation of open source media?

14 A. That these particular drugs
15 are -- there are situations of probably drug
16 use, meaning that individuals are combining
17 prescription medications with other
18 substances for a variety of reasons.

19 Q. Okay. And what might those
20 reasons include?

21 A. Those reasons could be either
22 ignorance of the interaction, or potential
23 interaction, and it could also be that
24 persons are involved in this type of activity
25 and -- from peer group pressure, and they

1 also could be involved in this activity as
2 social gatherings.

3 Q. Okay. And you talked about
4 some combinations of prescription
5 medications. Are you familiar with what's
6 often referred to as the "trinity"?

7 A. That is something that I
8 personally -- my personal knowledge of that
9 is it also comes through open source media,
10 yes.

11 Q. Okay. What's is your
12 understanding of what the "trinity" is?

13 A. It is typically an opioid and
14 one of the anti-depressants or tranquilizers,
15 along with a muscle relaxer of some
16 nomenclature.

17 Q. And what about the "holy
18 trinity"? Are you familiar with the "holy
19 trinity"?

20 MR. VARNADO: Object to form.

21 THE WITNESS: Only what I've
22 read.

23 Q. (BY MR. ECKLUND) Okay. And
24 again, what have you read about the holy
25 trinity as concerns combinations of

1 prescription medications?

2 A. I have read that there have
3 been certain persons, in certain
4 circumstances, where that was a -- that that
5 was considered potentially problematic. And
6 that that was a popular combination that was
7 being seen more and more prescribed from
8 medical doctors.

9 Q. And you mentioned earlier that
10 you thought that people -- the reasons people
11 might use these particular medications could
12 include ignorance of the interaction, or the
13 potential interaction, peer group pressure,
14 and also could be involved in this activity
15 as social gatherings.

16 Why would people be combining
17 these medications during social gatherings?

18 MR. VARNADO: Object to form.

19 Q. (BY MR. ECKLUND) Based on your
20 understanding of the social media. I mean,
21 there's an opioid crisis. Can we agree that
22 there's an opioid crisis?

23 A. There is an opioid crisis.

24 Q. When did you become familiar
25 with the opioid crisis?

1 A. My recollection goes back
2 personally, approximately 2006.

3 Q. 2006. And in 2006, you were
4 already at Walmart? You were joining
5 Walmart?

6 A. I was.

7 Q. Okay. So you arrived on the
8 scene and you were aware that there's a
9 crisis of opioids at that point?

10 A. I was aware personally that
11 there was communications in media of an
12 opioid crisis.

13 Q. Did you disagree with the media
14 coverage concerning the opioid crisis?

15 A. At that particular point in
16 time, I didn't have evidence to agree or
17 disagree.

18 I am looking -- I am looking at
19 and focusing on the potential for that.

20 Q. All right. Since 2006, have
21 you come to a point where you now would agree
22 that there is in fact an opioid crisis or
23 epidemic in the United States?

24 MR. VARNADO: Object to form.

25 THE WITNESS: I would agree

1 that there is a crisis of opioids.

2 Opioids being a very general term in a
3 very broad class of substances.

4 Q. (BY MR. ECKLUND) Would you
5 agree that there is a prescription opioid
6 crisis in the United States today?

7 A. I do not have the evidence or
8 the factors in front of me to agree or
9 disagree with that, Counsel.

10 Q. Okay. Are you aware that
11 between 2000 and 2014, unintentional drug
12 overdoses in the United States increased over
13 137 percent?

14 A. I am familiar with numbers that
15 come from a multiple of different open
16 sources such as CDC, such as the DEA. But
17 I'm not aware that -- whether -- what the
18 root cause of those overdose deaths were,
19 other than a broad class of opioids.

20 Q. Okay. Were you aware that
21 there was a 200 percent increase in overdose
22 deaths involving opioids?

23 MR. VARNADO: Object to form.

24 THE WITNESS: Again, opioids is
25 a broad class, both illicit and

1 prescription.

2 Q. (BY MR. ECKLUND) Were you
3 aware that more than half a million deaths
4 were due to prescription overdoses?

5 A. I'm not familiar with that
6 particular number related to specifically
7 prescription overdoses.

8 Q. Okay.

9 In 2015, there were 47,000
10 overdose deaths. And there were more than
11 28,000 deaths involving opioids including
12 heroin. But within that same year there were
13 19,000 involving prescription opioids.

14 Were you aware of that?

15 MR. VARNADO: Object to form.

16 THE WITNESS: I don't recall
17 reading that.

18 Q. (BY MR. ECKLUND) Okay.

19 A. Specifically.

20 Q. In your investigations online,
21 have you ever taken the time to read the CDC,
22 National Center for Health Statistics and
23 Morbidities Mortality Report from
24 January 1st, 2016?

25 A. I did.

1 Q. You did? That's where these
2 numbers are coming from.

3 A. (Witness nods.)

4 Q. Do you have any reason to
5 dispute any of the CDC's statistics?

6 A. I'm not in a position to
7 dispute or support CDC's outcome or
8 statistics.

9 Q. So you're not willing to accept
10 them, but you're also not in a position to
11 dispute them?

12 MR. VARNADO: Object to form.

13 THE WITNESS: I didn't say I
14 didn't accept them. I said I have no
15 basis to accept or reject.

16 Q. (BY MR. ECKLUND) Okay.

17 Looking at your evaluations at
18 57276, there's a description in the bottom
19 third of page -- "Initiate and direct drug
20 diversion education and training, enhancing
21 engagement and interaction between
22 investigative team and field associates."

23 MR. VARNADO: Can you
24 show where on the page you are?

25 MR. ECKLUND: Sure.

1 It's 57276.

2 Q. (BY MR. ECKLUND) Mr. Beam,
3 when you look on the bottom left-hand page --
4 I'm sorry, right-hand side. Yeah, it's my
5 left, your right.

6 A. Ahh.

7 Q. My apologies.

8 A. Yes, sir.

9 Q. So throughout the deposition, I
10 may reference those numbers. I'm not going
11 to read Walmart MDL or the zeros that come
12 before --

13 A. Got ya.

14 Q. -- the numbers.

15 So you'll see at bottom in
16 Section 2.1, there's a description.

17 Do you see the description?

18 A. Yes, sir.

19 Q. Okay. And "Initiate and direct
20 drug diversion, education and training,
21 enhancing engagement and interaction between
22 the investigative team and field associates."
23 I'd like to talk a little bit about this.

24 So at this point, initiate,
25 you're beginning a program?

1 MR. VARNADO: Object to form.

2 THE WITNESS: No, sir.

3 Q. (BY MR. ECKLUND) What were you
4 doing, "initiating"?

5 A. That is -- each year, as we
6 roll from one evaluation period to another,
7 then those goals and objectives are set.
8 Meaning this is what we plan to do for this
9 particular given year.

10 This one is an ongoing effort,
11 and was part of a program that's ongoing when
12 I came onboard in 2006, to educate new
13 associates and existing associates within the
14 health and wellness division in the field
15 areas in the market teams on, "Here are the
16 things that we're seeing inside of Walmart,
17 and we need your help as leadership, number
18 one, to identify it, and number two, to help
19 train your associates better, and number
20 three, to report this information if you see
21 these activities occurring within your
22 space."

23 Q. Okay. Who was -- who was
24 running that portion of the program in 2006
25 when you came onboard?

1 A. Each investigator's
2 responsible --

3 Q. What were the names of
4 the investigators?

5 A. -- for covering their area.

6 MR. VARNADO: Let him finish
7 his answer.

8 MR. ECKLUND: That's fine.

9 THE WITNESS: Each of the
10 investigators are responsible for
11 doing that activity in their areas.

12 Q. (BY MR. ECKLUND) I'm asking
13 for names, specifically names. Do you recall
14 any of the names of the investigators that
15 were responsible, when you came onboard in
16 2006, for educating and training, enhancing,
17 management interaction between investigative
18 teams and field associates?

19 A. When I came onboard in 2006,
20 that would have been Terry Crabb.

21 Q. Anyone besides Terry Crabb?

22 A. Jamie Newell, who was the
23 senior manager of the group at that time.

24 Q. Anyone else?

25 A. Glenn Webster.

1 Q. Anyone else?

2 A. Latonya Foster was onboard at
3 that time, in 2006.

4 Q. Anyone else?

5 A. And Rob Price.

6 Q. That's very helpful.

7 So these five individuals you
8 just identified, were they -- did they
9 continue to be responsible for the initiation
10 and direction and education and training as
11 described on this page beyond 2006?

12 Did they continue in that role
13 with that same responsibility from 2006
14 beyond into 2007? '8?

15 A. I don't recall specifically the
16 exact times that they took positions and
17 promotions on the other teams and did other
18 things, but they were responsible up until
19 the time they left the teams.

20 Q. And when did -- do you remember
21 when they left the teams?

22 A. I don't, sir.

23 Q. Do you --

24 A. Because it has been -- the
25 teams have migrated and morphed over the

1 years.

2 Q. Do you recall any additional
3 individuals who were responsible for this
4 initiative as described on this page in 2007?

5 A. I can't distinguish. But if
6 all of those individuals were still there in
7 2007, like I say, I don't know exactly when
8 the rotation of one person vacated the
9 position and it was backfilled with another
10 investigator.

11 Q. All right. I'm asking it
12 slightly differently. So in 2006, you're
13 fairly confident that these individuals --

14 (Interruption with hold music.)

15 MR. ECKLUND: So for the
16 benefit of the record, we've lowered
17 the volume on the speakerphone
18 because, once again, we've been placed
19 on hold and we'll just note for the
20 record that it's the same hold music,
21 so we suspect it's more than likely
22 the same individual or law firm.

23 Q. (BY MR. ECKLUND) So, Mr. Beam,
24 what I'm asking -- and trying to understand
25 whether, in 2007, you recall any other people

1 that might have had the same responsibility.

2 So I'm not asking you
3 necessarily a hard stop for Terry Crabb or
4 for Webster, or any of these other
5 individuals, that they started in '06 or '05
6 or '04, and they continued until June of '08
7 or '09. Just generally, who are the other
8 people that might have been involved?

9 So the people you can recall
10 that had responsibility for this initiative
11 which is described on your evaluation in
12 2011, right? But we want to understand who
13 fills in prior to that. All right?

14 So 2007, do you recall any
15 other individuals that were responsible for
16 this initiative?

17 MR. VARNADO: Object to form.

18 THE WITNESS: I don't recall in
19 2007.

20 Q. (BY MR. ECKLUND) Okay. Same
21 for 2008. Do you recall any additional
22 individuals who would have been responsible
23 for this initiative in 2008?

24 A. 2008, potentially. There could
25 have been the change out of some of those

1 positions. And at some point in there, a
2 Richard Ivy would have come onboard.

3 Q. Anyone else?

4 A. Jarred Crabtree at some point
5 was on the team.

6 Q. Possibly 2008, but it might
7 have been later on?

8 A. Could have been.

9 Q. Anyone else?

10 A. Kathy Stowe.

11 Kelly Cox.

12 Q. Anyone else?

13 A. Travis Fought.

14 Q. Anyone else?

15 A. John Oldfather.

16 Q. Any other names come to mind?

17 A. And currently, and just
18 recently, Brandon Rogers.

19 Q. Okay. You said something very
20 important just now. You said "and just
21 recently." So these additional individuals,
22 Mr. Oldfather, Travis, Ms. Cox, these are
23 individuals that may have been doing the same
24 initiation, direction, education, and
25 training, since 2006 through to today?

1 A. Yeah. They --

2 Q. Okay.

3 A. They weren't doing direction.

4 They were doing interaction.

5 Q. Okay. All right. Let's talk a
6 little bit about what you would do in order
7 to become educated and also insistent in how
8 you would educate the investigative teams and
9 the field associates. All right?

10 You've given a fair number of
11 names. Is it important that the training
12 that they receive and provide to others would
13 be consistent across Walmart?

14 MR. VARNADO: Object to form.

15 THE WITNESS: Across what, sir?

16 Q. (BY MR. ECKLUND) The field
17 associates, they're located across the
18 country; right?

19 A. They're located here in
20 Bentonville --

21 Q. Just Bentonville --

22 A. -- and they cover geographic
23 areas. Yes.

24 Q. Is it important they are
25 provided consistent training?

1 MR. VARNADO: Object to form.

2 THE WITNESS: It is important
3 that they remain abreast of the
4 current trends and knowledgeable of
5 what the focal points are at that
6 time.

7 Q. (BY MR. ECKLUND) That's a fair
8 point. I understand what you're saying. I'm
9 also wondering about how these individuals
10 would have been trained on the subject matter
11 that they needed to then retrain others on,
12 or teach others about.

13 A. The vast majority of the people
14 that are named there are former law
15 enforcement officers, with great experience.
16 And as they come in, they come in with a
17 great deal of that knowledge in their
18 position already. And as they are oriented
19 into Walmart's environment, they do meet and
20 talk with the compliance division. They do
21 meet and talk with operations division. They
22 get an understanding of the environment that
23 they're responsible for, and then they look
24 at the information and data to determine
25 where there may be opportunities or there may

1 be some things that they can do in order to
2 help improve that area.

3 Q. Okay. Let's talk a little bit
4 about that.

5 You said that they're former
6 law enforcement officers.

7 From which law enforcement
8 groups are they coming from?

9 A. Yeah. Most were law
10 enforcement officers.

11 Q. But I mean police officers?
12 Local enforcement? State enforcement?
13 Federal enforcement?

14 A. Across all of those boundaries?

15 Q. Combination?

16 A. Yeah.

17 Q. Okay.

18 What is N-A-D-D-I?

19 A. It's National Association of
20 Drug Diversion Investigators.

21 Q. Okay. And are you actively
22 involved in that association?

23 A. Currently not. We were -- I
24 have not been actively involved over the past
25 two years. Mainly due to time.

1 Q. Prior to 2017, were you
2 involved since your arrival at Walmart?

3 A. Yes. We would -- we would talk
4 with the state and the national level of
5 leadership in that organization, and we would
6 also attend conferences.

7 Q. Do you participate in those
8 conferences annually?

9 A. We would have members of the
10 team that would attend those conferences.
11 Not every team member was able to go.

12 Q. Okay.

13 MR. ECKLUND: You going to ask
14 them to take attendance?

15 MR. CECCHI: Yeah.

16 Should we take an attendance of
17 all the attendees on the phone while
18 the hold music is playing and then
19 we'll do our own little diversion
20 investigation here and see who's on
21 hold?

22 Everyone on the phone, please
23 put your name on the record again.
24 You're going to have to speak up
25 because it's hard to hear you.

1 MR. INNES: This is
2 Michael Innes for plaintiffs.

3 MR. ANDERSON: Jon Anderson,
4 AmerisourceBergen.

5 MS. HOSMER: Heather Hosmer,
6 Arnold & Porter.

7 MS. MARINO: Christina Marino,
8 Tucker Ellis.

9 MR. BOWER: Zach Bower, Carella
10 Byrne.

11 MR. CECCHI: And, Zach, stop.
12 Who was the name before you? That was
13 hard to hear.

14 MS. MARINO: Christina Marino,
15 tucker Ellis.

16 MR. CECCHI: Anyone else?

17 MR. HALPERN: Rick Halpern,
18 Marcus & Shapira.

19 MR. SNYDER: Ryan Snyder,
20 O'Melveny & Myers.

21 MR. ECKLUND: Jon Anderson?

22 MR. ANDERSON: I'm on there.
23 I've already announced myself.

24 MR. VARNADO: All right. Thank
25 you, everybody. We're going to try to

1 press on here.

2 Q. (BY MR. ECKLUND) It's always
3 unique, every deposition.

4 A. The modern wonders of
5 technology.

6 Q. That's right.

7 All right. So, Mr. Beam, if I
8 could direct your attention to page 57289.

9 This is for your fiscal year
10 2013 annual performance review.

11 A. FY13? On the 289?

12 Q. Okay. Top right side of the
13 page, "Diversion mitigation response. Year
14 to date, the team completed 1,065 pharmacy
15 investigations through December 2012, 800 of
16 which were resolved as confirmed diversion
17 integrity or cleared with no losses through
18 research."

19 Were you involved in those
20 efforts to investigate those 1,065 pharmacy
21 investigations?

22 A. My responsibility at that time
23 was to manage the team who were directly
24 involved with those investigations.

25 Q. Did you provide oversight to

1 the team that was responsible for those
2 individualized investigations?

3 MR. VARNADO: Object to form.

4 THE WITNESS: I reviewed
5 reports and provided direction as the
6 team members needed assistance in
7 making decisions.

8 Q. (BY MR. ECKLUND) Do you recall
9 approximately how many times you needed to
10 review the reports and provide direction for
11 these 1065 pharmacy investigations?

12 A. I don't recall the numbers. I
13 mean, it is a daily interaction with my
14 investigators.

15 Q. More than half of the 1,065?

16 MR. VARNADO: Object to form.

17 THE WITNESS: I would not say
18 that there needed direction or any
19 type of direct -- any type of
20 instruction over half, I wouldn't
21 agree to that.

22 Q. (BY MR. ECKLUND) More than
23 10 percent?

24 A. There was more.

25 MR. VARNADO: Counsel, could

1 you please let him finish his answer.

2 THE WITNESS: There was a lot
3 of conversation that occurred, and as
4 those conversations occurred, it is
5 more of a sounding board and just
6 bouncing things off.

7 Q. (BY MR. ECKLUND) All right. I
8 will apologize for interrupting you, but I
9 also want to remind you again, I'm asking
10 questions and I'm hopeful that the answers
11 will be responsive to the question that I'm
12 asking. The question that was asked was more
13 than half. And you went on a bit of a
14 tangent on to other things.

15 So I can read it back to you,
16 or you can look at the iPad and see the
17 question, but I want to try to keep on focus.
18 We want seven hours. We want to get through
19 this. It's a lot easier if we can keep on
20 track.

21 MR. VARNADO: And I would just
22 say, for the record, that the witness
23 responded. I would not say that there
24 needed direction or that type of
25 instruction on over half. I wouldn't

1 agree to that.

2 MR. ECKLUND: And then he
3 continued.

4 MR. VARNADO: No. Then you
5 asked him, "More than 10 percent?"
6 And he answered.

7 Q. (BY MR. ECKLUND) And the
8 answer to the question "More than
9 10 percent," there was more -- "There was a
10 lot of conversation that occurred and as
11 those conversations occurred, I was more of a
12 sounding board and just bouncing things off."

13 So the answer is more than
14 10 percent, more than 10 percent, yes?

15 A. No.

16 Q. Less than 10 percent?

17 A. It would be a guess --

18 MR. VARNADO: If you know. --

19 THE WITNESS: Guesstimate on my
20 part. I can't give you a specific
21 percentage.

22 Q. (BY MR. ECKLUND) Less than
23 5 percent?

24 A. I can't give you --

25 MR. VARNADO: Object to form --

1 THE WITNESS: -- specific
2 percentage, Counselor.

3 Q. (BY MR. ECKLUND) Do you know
4 whether you looked at more than 20 of those
5 investigations in that year?

6 MR. VARNADO: Object to form.

7 THE WITNESS: I would say
8 the -- over -- over the year I looked
9 at just about all of those. But that
10 was more from keeping up with what was
11 going on, rather than managing and
12 directing.

13 Q. (BY MR. ECKLUND) Okay. And
14 then specifically in managing and directing,
15 more than 20? Where you directed the
16 outcome?

17 A. I didn't direct the outcome of
18 hardly any of these. That's the
19 responsibility of our investigators working
20 in coordination with our compliance division.

21 Q. It's the "hardly any" that I'm
22 trying to understand.

23 A. I don't direct the outcome of
24 an investigation.

25 Q. Okay.

1 A. The investigation will go where
2 the facts lead.

3 Q. Do you keep records of the
4 investigations in which you became involved?

5 A. There's a record of
6 investigations, period.

7 And if I was involved in it,
8 that would be indicated in the report.

9 Q. Okay. Okay. In the 800 of
10 which were resolved as confirmed diversion
11 integrity or cleared with no losses through
12 research, do you recall how many of the 800
13 were confirmed diversion?

14 A. I couldn't sit here and give
15 you a clear answer on that today, from that
16 time frame.

17 Q. Are there records within
18 Walmart that would give us that answer?

19 A. Investigative reports, I
20 presume.

21 Q. So within the 800 investigative
22 reports, you presume they would indicate
23 whether they were resolved as confirmed
24 diversion, or integrity, or cleared with no
25 loss?

1 A. Na that would be an accurate
2 reflection.

3 Q. Towards the bottom of the page
4 you see a bolded section. "Diversion,
5 training, outside agency engagement."

6 Do you see that?

7 A. Yes, sir.

8 Q. And it reads, "Diversion team
9 has completed 16 diversion training and
10 awareness seminars educating over 600
11 pharmacy and asset protection associates on
12 diversion trends and methodologies."

13 Were you involved in the
14 training and awareness seminars?

15 A. Those were not. Those were the
16 ones that the investigators were completing.

17 Q. Did you attend the training and
18 awareness programs?

19 A. Not each of those. I have
20 attended a handful of those.

21 Q. Were there written materials
22 handed out at the trainings that you did
23 attend?

24 A. No.

25 Q. Were there slide decks shown?

1 A. There were.

2 Q. Okay. PowerPoint slide decks
3 on a large screen?

4 A. Yes, PowerPoints.

5 Q. Okay. Do you recall any of the
6 outside agencies that were brought in?

7 A. I -- I can't answer that
8 specifically, or exactly. I know there were
9 occasions where outside agencies would
10 attend. Particularly board to pharmacy, or
11 diversion investigators, but to say which
12 department in which states in which training
13 session, I -- I don't recall.

14 Q. Turn your attention to 57302.
15 It's fiscal year 2015.

16 Toward the bottom of the page
17 reads, "Diversion team has ran six
18 significant cases during the first quarter,
19 one of which was one of the largest losses
20 discovered in recent memory. Complicated
21 cases have been uncovered."

22 Do you see that?

23 A. I do.

24 Q. Do you remember anything about
25 the largest loss discovered in recent memory

1 investigation? Do you remember what product
2 it involved? What part of the country it
3 concerned?

4 Anything at all?

5 MR. ECKLUND: I'll just note
6 for the record that the witness is
7 perusing through what has been marked
8 as Exhibit 1, and I suppose in an
9 effort to refresh his recollection.

10 THE WITNESS: That is correct.

11 Q. (BY MR. ECKLUND) Okay.

12 A. I do not see anything in the
13 record that would assist me in recalling
14 that. I don't recall the specifics of that
15 particular investigation.

16 Q. But for that investigation
17 along with the other six or five, depending
18 on how they were tabulated, there would be
19 records within Walmart that would document
20 those investigations; correct?

21 A. There would be a case file.

22 Q. There would be a case file.

23 And would you have reviewed
24 that case file?

25 A. I would have reviewed that case

1 file.

2 Q. Okay.

3 Direct your attention to Bates
4 page 57310. And while you get there, I'll
5 just read this into the record.

6 It's in the right-hand side in
7 Section 1.1, bottom half.

8 "Through November 2014, the
9 team successfully initiated 555 diversion
10 investigations, closed 543 investigations,
11 20 percent of which were confirmed active
12 diversion.

13 "The team's investigative
14 efforts resulted in the identification of
15 more than [REDACTED] dosage units of various
16 controlled substances missing or stolen from
17 inventory with a street value of more than
18 [REDACTED], almost double the volume of
19 missing inventory over" -- and I believe that
20 was last year to date?

21 A. That is correct.

22 Q. Okay.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

25 A. Those are unknown. Those would

1 be -- and could be generated from a multitude
2 of areas.

3 As we've seen and experienced
4 today, technology is a wonderful thing until
5 it doesn't work. So occasionally there will
6 be some gaps that will occur. And as we
7 track those down, we can find absolutely no
8 evidence of diversion, theft, or the loss.

9 Q. Okay.

10 [REDACTED]
11 that were missing or stolen from inventory,
12 do you have any insights or records that
13 would show from which parts of the country
14 those missing units were taken?

15 A. Those would be in the
16 investigative files. I mean, that would --
17 did we -- did we plot those? No.

18 Q. [REDACTED]
19 acceptable amount of theft or loss within
20 Walmart?

21 MR. VARNADO: Object to form.

22 THE WITNESS: The loss or theft
23 of any is going to be considered.

24 Walmart has a compliant
25 culture, and the theft and loss of

1 those are not something that Walmart
2 was ascribed to.

3 There are things that are going
4 to happen, and we talk about these
5 theft and losses. You also have to
6 keep in mind that these are all
7 substances that were scheduled to be
8 delivered to a pharmacy, so these
9 include not only ranges from a single
10 person, self-medicating, taking an
11 aspirin from inventory, which we had
12 to go to determine that that was in
13 fact an aspirin, through in-transit
14 losses that were lost in shipment and
15 never arrived at the pharmacy.

16 Q. (BY MR. ECKLUND) Okay. I'm

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18         include aspirin?
19         include aspirin?
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20 A. Controlled substances would
21 not. But we -- the -- just to give you a
22 broad brush, we look at any of those
23 anomalies inside of the pharmacy
24 environments.

25 Q. Okay. I'm only concerned with

1 the controlled substances right now.

2 A. Understood.



13 Do you have any understanding
14 of how many of those were C-IIIs?

15 A. I do not.

16 Q. And would the records reflect
17 how many of those were C-IIIs?

18 A. In these losses, the 106 files,
19 perhaps.

20 Q. Would it be reflected in the
21 Tableau?

22 A. No.

23 Q. What about in the Alteryx?

24 A. No.

25 Q. SQL database?

1 A. No.

2 Q. Archer?

3 A. No.

4 Q. Only the 106 forms?

5 A. 106 forms and case files.

6 Q. Were you using Tableau at this
7 point? November 2014?

8 A. We -- we were using Tableau as
9 a company and as a division, but it was not
10 used to track or to load health and wellness
11 information.

12 From our -- we did not have
13 those ability to Archer during this time
14 frame.

15 MR. VARNADO: Counsel, we've
16 been going close to an hour and a half.

17 MR. ECKLUND: That's fine.

18 MR. VARNADO: Take a little
19 break? Doesn't have to be long.

20 VIDEOGRAPHER: 9:54. We are
21 off the video record.

22 (Recess taken, 9:54 a.m. to
23 10:07 a.m.)

24 THE VIDEOGRAPHER: 10:07. We
25 are on the video record.

1 Q. (BY MR. ECKLUND) Welcome back,
2 Mr. Beam. You understand you're still under
3 oath?

4 A. I do.

5 Q. Okay. So we were talking a

6 [REDACTED]
7 and I'm wondering, at that point in time,
8 would there have been a way for you to
9 understand where the holes were that would
10 have allowed so many pills to go missing or
11 to have been stolen?

12 MR. VARNADO: Object to form.

13 THE WITNESS: There are endless
14 ways that persons can take substances
15 out of a pharmacy, any given pharmacy,
16 not just Walmart pharmacy. It is a
17 company with associates. Those
18 associates are human beings, and good
19 people are going to make bad
20 decisions.

21 That's why the company has our
22 team in place, in order to identify
23 and mitigate that as quickly as
24 possible.

25 There are -- in order to look

1 at trends, yes, we looked at trends.

2 And that was a part of the continuing
3 feedback loop to the field in these
4 training sessions.

5 Q. (BY MR. ECKLUND) You mentioned
6 that sometimes good people make bad
7 decisions. Did you report any of those good
8 people who made these bad decisions to local
9 law enforcement?

10 A. We did.

11 Q. How many?

12 A. In fact, every investigation
13 where diversion is proven, we have the
14 evidence, that information is referred for
15 prosecution and police are notified in each
16 individual case.

17 Q. Okay. So in every instance
18 where you have sufficient information, where,
19 using your term, where diversion is proven,
20 and where you have the evidence, that
21 information is referred to prosecution and
22 police are notified in each individual case.

23 Did you -- when you had
24 occasions to suspect diversion, did you refer
25 that information, whether it was proven or

1 not proven, just suspected, to DEA?

2 MR. VARNADO: Object to form.

3 THE WITNESS: That information
4 was reported if there were losses
5 connected. But in terms of referring
6 for local law enforcement, we did not
7 refer to local law enforcement unless
8 there is prosecutable evidence there.

9 Q. (BY MR. ECKLUND) I was
10 specifically asking about DEA. So it would
11 have been reported to DEA. And then as far
12 as referral for prosecution asks you
13 employees who were involved, that was only
14 when you felt that the evidence was clear?
15 That there was prosecutable evidence?

16 A. Yes.

17 Q. Okay.

18 A. And the -- in reporting to the
19 DEA, each one of these investigations are
20 coordinated through compliance, who completes
21 the 106s, per their guidelines. And per
22 their instructions.

23 What we do is submit the facts
24 to local law enforcement, our state law
25 enforcement, for additional action to include

1 prosecution.

2 Q. Okay. Okay. We were talking
3 earlier about the definition of diversion.
4 You gave me your definition. I'm wondering
5 whether the intended purposes and
6 unaccountable losses were factors as well.

7 So we talked about theft. Do
8 you recall that?

9 A. (Witness nods.)

10 Q. And we talked about illicit
11 use, the child taking the product from a
12 parent. What about any other deviation from
13 what the intended path for that pill was? Is
14 that considered within Walmart as part of
15 diversion?

16 MR. VARNADO: Object to form.

17 THE WITNESS: Once the
18 prescription is -- a legitimate
19 medical prescription is received and
20 filled, there is not necessarily a
21 feedback loop that comes back to the
22 company that would reflect that.

23 So I'm -- I can't sit here and
24 answer the end consumption of a
25 legitimate prescription that left our

1 pharmacy, sir.

2 Q. (BY MR. ECKLUND) I'm not
3 asking you to answer who ultimately consumed
4 the pill. I'm asking whether the deviation
5 from the intended path for the pill is
6 considered as part of diversion within
7 Walmart.

8 So beyond just theft or loss or
9 the bad employee -- good person you described
10 as doing a bad thing, I would call them bad
11 employee, who is stealing or selling or
12 taking prescription drugs that they shouldn't
13 be taking. Is that fair to say? If
14 someone's taking this stuff, they shouldn't
15 be taking it?

16 MR. VARNADO: Object to form.

17 THE WITNESS: I wouldn't
18 necessarily call any person a bad
19 person. I'm not going to judge
20 another person's heart, motive or
21 intent.

22 MR. ECKLUND: Okay.

23 THE WITNESS: But what I will
24 say is that we have had people who
25 have been long-term associates, and

1 have been stellar performers, but make
2 bad decisions.

3 Q. (BY MR. ECKLUND) Okay. So a
4 long-term associate who was a stellar
5 performer who took a bottle of oxy 30s and
6 sold them to kids at a playground, not a bad
7 person?

8 MR. VARNADO: Object to form.

9 THE WITNESS: That is a
10 hypothetical, and I could only give
11 you a hypothetical answer.

12 MR. ECKLUND: Okay. All right.

13 We'll mark this as Exhibit 2.

14 Q. (BY MR. ECKLUND) The whole
15 purpose behind the Controlled Substances Act
16 is to control potentially dangerous drugs;
17 correct?

18 MR. VARNADO: Objection, form.

19 THE WITNESS: That is -- that
20 is my understanding. That they are
21 scheduled for a reason.

22 Q. (BY MR. ECKLUND) And the
23 reason why, as I understand it, the DEA
24 concerns itself with diversion is because
25 they're concerned about where those pills may

1 be used or consumed.

2 MR. VARNADO: Object to form.

3 THE WITNESS: I do not have
4 insight into the -- all the decisions
5 and factors used by the federal
6 government to make those decisions.

7 Q. (BY MR. ECKLUND) Well, you've
8 attended for many, many years meetings where
9 members of law enforcement, DEA included,
10 would be present providing presentations,
11 providing information, correct?

12 A. I have attended several.

13 Q. And throughout any of those
14 conferences or meetings, did they ever share
15 with you their views on the importance of
16 preventing diversion?

17 A. Both diversion and consumption.

18 Q. Okay.

19 (Walmart-Beam Deposition
20 Exhibit 2, September 2010 email,
21 Subj: RE: DEA Audit at DC 6013.
22 WMT_MDL_000057259-57260, was marked
23 for identification.)

24 Q. (BY MR. ECKLUND) And one
25 reason that they're concerned about

1 prevention and diversion is because diversion
2 can cause harm to people; correct?

3 MR. VARNADO: Object to form.

4 THE WITNESS: It potentially
5 can. It doesn't always result in
6 harm.

7 Q. (BY MR. ECKLUND) Not always,
8 but can? Correct?

9 A. It can.

10 Q. Okay. And when you're talking
11 about Schedule IIs, where the risk of abuse
12 and addiction is most significant, the
13 concerns are even more heightened than, for
14 example, substances in controlled Category
15 IV; correct?

16 MR. VARNADO: Object to form.

17 THE WITNESS: The
18 classification is more restrictive.

19 Q. (BY MR. ECKLUND) The
20 restrictions for those classifications are
21 based upon perceived concerns about risk and
22 abuse; correct?

23 A. As that -- that is the language
24 of the CSA Act, yes.

25 Q. Okay. Now, I've handed you

1 what's been marked as Exhibit 2.

2 And you'll see it's an email,
3 and at the top it was sent by James Greer,
4 and this bears Bates stamp 57259.

5 Tim Harris and Susanne Hiland
6 are also recipients of this email.

7 Do you see that?

8 A. I do.

9 Q. Who are James Greer,
10 Tim Harris, and Susanne Hiland, within
11 Walmart?

12 A. James Greer is senior manager
13 asset protection within logistics.

14 Q. Okay.

15 A. Tim Harris was a senior
16 director of health and wellness logistics.

17 Susanne Hiland, at this time,
18 was the director of health and wellness
19 compliance.

20 Q. And within Walmart's hierarchy,
21 are Mr. Greer and Mr. Harris above or below
22 Ms. Hiland? She has a different title so I'm
23 just wondering within the hierarchy.

24 A. Within hierarchy, they are
25 equals. But because each of those are --

1 each of those three right there are separate
2 entities, that work collaboratively.

3 Q. Okay. So director of health
4 and wellness is within the same tranche
5 within the hierarchy in Walmart as the senior
6 director of logistics?

7 A. Senior director.

8 Q. Senior director. Sorry. I
9 thought that Mr. Greer was the senior
10 manager.

11 A. Senior manager. Yes.
12 Mr. Greer is senior manager.

13 Q. Is he higher or lower than --
14 I'm trying to understand who is -- who is in
15 which role.

16 A. Yeah.

17 Q. So is Mr. Greer a person that
18 would delegate or be able to provide
19 assignments to Mr. Harris?

20 A. No.

21 Q. Okay. Other way?

22 A. Other way.

23 Q. Okay. So Mr. Harris can
24 provide assignments to Mr. Greer. So the
25 director, senior director of health and

1 wellness and logistics, Mr. Harris, would
2 supervise or be able to broken line or direct
3 line provide assignments to Mr. Greer?

4 A. Correct.

5 Q. And what about Ms. Hiland?
6 That's a different group, but she's a
7 director. Could she also provide assignments
8 to Mr. Greer?

9 A. She does not have oversight of
10 Mr. Greer. But in a matrix or organization,
11 we work jointly across, so whatever
12 Ms. Hiland would ask of Mr. Greer that was
13 within his job scope, I'm sure he would have
14 worked with her on.

15 Q. So I refer to that as like a
16 broken line reporting structure, where she's
17 not always directly providing him
18 responsibilities or task, but on occasion
19 can.

20 A. Correct.

21 Q. Okay. Now, looking at this
22 email, it concerns a specific DC. Do you see
23 that, DC 6013?

24 A. Yes, sir.

25 Q. And there's an audit, DEA

1 audit. Do you recall that audit?

2 A. Off the top of my head, I do
3 not.

4 Q. How often does DEA audit
5 Walmart distribution centers?

6 A. That, sir, you would have to
7 get from logistics.

8 Q. It's not something that would
9 often include you?

10 A. Correct.

11 Q. Now, second line up -- I'll
12 just start from the top. They are looking
13 for our due diligence in dealing with
14 excessive or suspicious orders.

15 Currently we rely on the
16 diversion team to run audits and flag
17 excessive purchases.

18 Do you see that?

19 A. I do.

20 Q. Okay. Who -- who is on the
21 diversion team at this point? In 2010?

22 A. Because of the fluid nature of
23 the diversion team, with answers that I
24 provided previously, I would -- I cannot
25 specifically tell you who would have been on

1 the team at that particular time of this
2 email.

3 I can -- I can only guess at
4 that point.

5 Q. Were you part of the diversion
6 team?

7 A. I was the senior manager of the
8 diversion team at that time.

9 Q. Okay. Were you responsible for
10 running the audits?

11 A. I was not responsible for
12 running the audits, but our analyst team
13 were.

14 Q. Were you responsible for
15 reviewing the work of your analyst team?

16 A. I do review the analyst work of
17 the audit team in that any -- any product
18 they would have produced would have been
19 shared with compliance along with logistics
20 before it would have been shared elsewhere.

21 Q. So would you have reviewed the
22 work of the analyst team prior to sharing it
23 with the other groups within the diversion
24 team? For example, compliance?

25 MR. VARNADO: Object to form.

1 THE WITNESS: Yes.

2 Q. (BY MR. ECKLUND) Okay. So you
3 would review the analyst's work, and then
4 once you were comfortable that it was quality
5 work, you would share it with others on the
6 diversion team?

7 MR. VARNADO: Object to form.

8 THE WITNESS: Once I felt that
9 the ask was complete, then, yes, that
10 would have been shared with
11 compliance.

12 Q. (BY MR. ECKLUND) Okay.

13 Were you also involved in
14 flagging excessive purchases?

15 A. I was not.

16 Q. Do you know who was?

17 A. That, I do not know.

18 Q. Do you know how Walmart was
19 complying at that point --

20 MR. VARNADO: Object to form.

21 Q. (BY MR. ECKLUND) -- with
22 flagging excessive purchases?

23 MR. VARNADO: Sorry. Object to
24 form.

25 THE WITNESS: I do not know the

1 decisions or the processes by which
2 one was determined to be flagged or
3 not.

4 Q. (BY MR. ECKLUND) That wasn't
5 something that was --

6 A. At that time.

7 Q. Was that something that was
8 discussed within the diversion team, or was
9 that something that was discussed
10 specifically within compliance?

11 A. That was something that was
12 discussed outside of diversion team. I don't
13 know who were parties to those discussions.

14 Q. Okay.

15 Who -- do you know anyone at
16 Walmart that would know who was party to
17 those discussions?

18 MR. VARNADO: Object to form.

19 THE WITNESS: I do not.

20 Q. (BY MR. ECKLUND) Okay. Line
21 continues, "However, the DEA had indicated
22 more than once that they want the DC to be
23 able to show due diligence."

24 Do you have an understanding of
25 what DEA was particularly concerned about as

1 far as due diligence?

2 A. I don't know what Jim Greer's
3 intent was behind that terminology. I can't
4 speak for him, sir.

5 Q. Okay. Did you do anything in
6 response to this request for being able to
7 show due diligence?

8 MR. VARNADO: Object to form.

9 Q. (BY MR. ECKLUND) As part of
10 audit?

11 A. That was -- that information,
12 and that particular process, was handled
13 within logistics, with others that were
14 providing advice and recommendations.

15 I don't know what processes
16 were put in place at that particular time as
17 a result of this communication.

18 Q. Okay. What's an excessive
19 purchase report?

20 A. Those are reports we would
21 complete that were, in our vernacular, called
22 purchase and dispense reports.

23 So if a -- if an area or a
24 location was ordering substances, any C-III
25 through V -- or C-II through V, rather --

1 that appeared to be growing, then that would
2 be a signal for us, number one, potentially
3 we'd want to take a further look at that.
4 But we also want to look at dispenses to
5 determine are the dispenses consistent with
6 what the systems or the associated store are
7 ordering.

8 Q. In that same sentence it
9 continues, about flagging amount.

10 It said, "You did not have a
11 flag amount." What is a "flag amount"?

12 MR. VARNADO: Object to form.

13 THE WITNESS: I do not know
14 what Mr. Greer intended by this flag
15 amount as it is related in this
16 communication.

17 Q. (BY MR. ECKLUND) At the bottom
18 of the email it continues, "Greg and I spoke
19 and are in agreement that we do not want to
20 make the flag so high that it does not
21 trigger, but we do not want to make it so low
22 that it's flagging all the time."

23 Do you recall that conversation
24 with Jim?

25 A. I don't recall that specific

1 conversation, but I -- I do have a general
2 understanding of what that sentence is
3 intending.

4 Q. What is your general
5 understanding of what this sentence is
6 intending?

7 A. The general understanding would
8 be that there are -- that the company would
9 identify particular orders that would require
10 further research.

11 But no one had specified and no
12 one had ascribed a particular or specific
13 number at that particular point on what would
14 be flagged or not flagged.

15 Q. It sounds --

16 A. That was a general
17 conversation.

18 Q. Subsequent to this email in
19 September of 2010, did someone ultimately
20 provide you a flag amount?

21 MR. VARNADO: Object to form.

22 THE WITNESS: They did not
23 provide me a flag amount. That was
24 part of the larger process that was
25 continuing through development within

1 logistics.

2 Q. (BY MR. ECKLUND) And do you
3 recall at what point in time they provided
4 what would be flagged or not flagged?

5 A. I do not. I was not part of
6 that conversation.

7 Q. Were you still on the diversion
8 team at that time?

9 A. I was.

10 Q. Do you have a recollection of
11 what the flag amounts were?

12 MR. VARNADO: Object to form.

13 Q. (BY MR. ECKLUND) When they
14 were established?

15 MR. VARNADO: Object to form.

16 THE WITNESS: At the time they
17 were established, I do not.

18 Q. (BY MR. ECKLUND) Do you recall
19 what they were in 2016?

20 MR. VARNADO: Object to form.

21 THE WITNESS: I do not.

22 Q. (BY MR. ECKLUND) Do you recall
23 whether they varied based upon the
24 particularity of the specific controlled
25 substances?

1 A. The process of reviewing those
2 records was a continuing evolving process.

3 I do not, and was not a part of
4 any decisions related to establishing what
5 those processes were, establishing or setting
6 any amounts, or how that would be handled and
7 who it was reported through and to.

8 Q. At the time of this DEA audit,
9 was it your understanding within the
10 diversion team that the DEA was particularly
11 concerned with any specific controlled
12 substance, or controlled substances
13 generally?

14 A. My understanding, that was a
15 part of the regulatory requirement for
16 establishing a distribution center. And that
17 the DEA were going to be looking at a myriad
18 of factors, to include things such as
19 reporting, to include the security features,
20 to include all of the things that are
21 required to operate a distribution center.

22 So it was inventory plus all of
23 the factors that accompanied that
24 requirement.

25 Q. And at that time, the myriad

1 factors and all of the factors they were
2 considering as you were beginning to operate
3 this new distribution center was not focused
4 on the availability of one particular family
5 of drugs or one particular type of controlled
6 substance; correct?

7 MR. VARNADO: Object to form.

8 THE WITNESS: I don't know. I
9 was not a part of this inspection or
10 visit.

11 Q. (BY MR. ECKLUND) If it was --
12 would it be custom within Walmart if there
13 were a specific concern that the DEA had
14 expressed about a particular product or
15 family of drugs that it would have been
16 mentioned in the email?

17 MR. VARNADO: Object to form.

18 THE WITNESS: I can't answer
19 that. I don't know.

20 MR. ECKLUND: Okay.

21 Q. (BY MR. ECKLUND) Who's Carlos
22 Aquino?

23 A. Could you spell that last name,
24 please?

25 Q. A-Q-U-I-N-O.

1 A. Off the top of my head, I have
2 no recollection of that name.

3 Q. Have you ever worked with any
4 compliance consultants?

5 A. No, sir.

6 Q. Have you ever worked with a
7 company named Farmer Diversion, LLC?

8 A. I do not recall that.

9 Q. Okay. Do you recall attending
10 a conference in or around June of 2011, in
11 New England, with the NADDI?

12 A. I do.

13 Q. Do you recall having any
14 conversations with law enforcement while you
15 were at that conference?

16 A. There was an HHS investigator
17 there.

18 Q. What did you guys talk about?

19 A. It was very general in term --
20 and his specific focus was on healthcare
21 providers and fraud.

22 Q. As concerns all healthcare
23 potential products, not specific recollection
24 about controlled substances?

25 A. Correct.

1 Q. And did you speak with anyone
2 from the pharmaceutical industry while you
3 were there?

4 MR. VARNADO: Object to form.

5 THE WITNESS: Pharmaceutical
6 industry. Can you define what you're
7 referring to there? Like manufacturer
8 or what -- what ...

9 Q. (BY MR. ECKLUND) Manufacturers.

10 A. I do not recall a manufacturer
11 being present at this meeting.

12 Q. What about wholesale
13 distributors?

14 A. I do not recall wholesale
15 distributors.

16 Q. Do you recall any presentations
17 that were provided by compliance consultants
18 from Farmer Diversion, LLC concerning due
19 diligence as it concerned controlled
20 substances?

21 A. At the New England meeting?

22 Q. Yes.

23 A. I do not have a recollection of
24 that.

25 Q. Do you recall any presentations

1 that were provided by a compliance consultant
2 as it concerns controlled substances at any
3 other meeting besides New England?

4 MR. VARNADO: Object to form.

5 THE WITNESS: I do not have a
6 recollection of that at any of those
7 meetings.

8 Q. (BY MR. ECKLUND) Do you have
9 any recollection of sitting through a
10 conference presentation that was
11 approximately 90 minutes titled "Controlled
12 Substances and the Pharmacist" while in
13 New England?

14 A. I do not. I'm not exactly
15 certain how long that particular New England
16 meeting was, but I was not necessarily
17 present for every presentation.

18 Q. Do you recall any changes in
19 Walmart's internal due diligence policies
20 following the New England meeting?

21 MR. VARNADO: Object to form.

22 Q. (BY MR. ECKLUND) I'll ask it a
23 different way.

24 A. Was it --

25 Q. I'll ask it a different way.

1 A. I'm sorry.

2 Q. You attended the meetings. You
3 may not recall certain presentations, maybe
4 you recall others.

5 Do you recall any changes that
6 you or the diversion team made within Walmart
7 in response to any of the information or
8 presentations that you had an opportunity to
9 see or listen to at the New England meeting?

10 MR. VARNADO: Object to form.

11 THE WITNESS: And we're simply
12 talking New England meeting?

13 MR. ECKLUND: Yes.

14 THE WITNESS: I do not recall
15 any changes connected from -- to
16 information coming from that.

17 Q. (BY MR. ECKLUND) Now, more
18 broadly, do you recall any changes that you
19 or the diversion team made within Walmart in
20 response to any information or presentations
21 that you had the opportunity to see or listen
22 to at any other NADDI meeting?

23 MR. VARNADO: Object to form.

24 THE WITNESS: Not specifically
25 tied to the meetings, no, sir.

1 Q. (BY MR. ECKLUND) What about
2 specifically tied to the presentations?

3 A. I do not recall any.

4 Q. Okay. Was it your habit to
5 attend these conferences and to take home
6 copies of the presentations if they're handed
7 out?

8 A. In some cases, I have.

9 In some cases, that was not
10 information that I had done -- I had room for
11 to bring home.

12 Q. So it depended on whether you
13 felt it was worth carrying home, and the
14 information would be useful enough to put
15 into your office?

16 MR. VARNADO: Object to form.

17 THE WITNESS: It would depend
18 on a lot of factors, but I -- it would
19 have to -- certainly have to be useful
20 or I would feel that it would be
21 useful.

22 Q. (BY MR. ECKLUND) What other
23 factors would it depend on?

24 A. Distance. Plans after this
25 particular conference. Did I have any

1 vacation plans subsequent to that. Was it
2 available electronically. There are a lot of
3 variables that would determine a physical
4 copy.

5 Q. So if your plans were to travel
6 home from the conference to go on a vacation,
7 the information was not available
8 electronically, would you take a physical
9 copy with you if you found the information
10 useful?

11 A. I'm not going to say I did that
12 each and every time.

13 Q. Okay. If you did take home a
14 physical copy with you, would you have
15 brought it to your home -- or withdraw the
16 question.

17 If you did take a physical copy
18 home from a meeting, would you bring that
19 physical copy to your home or to your office?

20 A. If I was flying back in from a
21 conference, it would travel -- depending on
22 time of arrival or return home, it would
23 determine whether I went to the office before
24 I went home. So it could end up at both.
25 But I would ultimately take it to the office.

1 Q. Okay. Thank you. That's what
2 I was going for.

3 A. Okay.

4 Q. And those files would be kept
5 in your custodial file?

6 A. Those files would be kept as
7 a -- through their end use purpose.

8 (Walmart-Beam Deposition
9 Exhibit 3, March 2012 email chain,
10 WMT_MDL_000054729-54731, was marked
11 for identification.)

12 Q. (BY MR. ECKLUND) I'm going to
13 hand you what has been marked as Exhibit 3.

14 MR. ECKLUND: And for the
15 benefit of those listening, it's Bates
16 stamped 54729.

17 Q. (BY MR. ECKLUND) Mr. Beam, at
18 the top you'll see this is an email that you
19 sent, so I suspect that the language within
20 the email, you'll be able to provide us some
21 insights on what you mean, because you wrote
22 it.

23 The email was sent by you to
24 Mr. Harris, to Mr. Greer, and to a new person
25 for us, Donna Auldridge.

1 Who is Donna Auldridge?

2 A. Donna Auldridge is -- was
3 Jim Greer's replacement, then logistics AP
4 when Jim Greer was promoted to a DC manager.

5 Q. Okay.

6 A. And distribution center
7 manager.

8 Q. At the top of your email you
9 wrote, "I will be meeting with
10 Phyllis today."

11 Who is Phyllis?

12 A. I don't recall, because there
13 are several Phyllises that worked in the home
14 office, both in compliance and legal.

15 Q. So this Phyllis may have been
16 someone involved in compliance or legal?

17 A. Yes.

18 Q. So there's two Phyllises you
19 have in mind. What are the names of those
20 two women? Full names.

21 A. Phyllis Harris.

22 Q. Okay. Please pause right
23 there.

24 Phyllis Harris. Is she the one
25 you think works in legal or compliance?

1 A. At that time she worked in
2 compliance.

3 Q. Okay. And the second Phyllis?

4 A. She worked in -- and I cannot
5 recall her last name, but she worked in
6 environmental.

7 Q. And environmental is part of
8 legal?

9 A. No. Environmental is in
10 environmental programs across the company.

11 Q. Is there a third Phyllis? In
12 your earlier answer, you mentioned that you
13 didn't recall the Phyllis -- there were
14 several Phyllises that worked in the home
15 office, both in compliance and legal.

16 So you've identified
17 Phyllis Harris as someone that worked in
18 compliance, and you've just identified this
19 other Phyllis, but she works in
20 environmental. Do you recall one that works
21 specifically in legal?

22 A. Well, no. Between this time
23 and now, Phyllis Harris has moved from
24 compliance to legal.

25 Q. Okay. All right.

1 All right. So then looking at
2 the remainder of your first sentence, the
3 Phyllis that works in environmental is more
4 than likely not the one you're referring to
5 here, because you're talking about diversion
6 and store operations.

7 Do you see that?

8 A. I do.

9 Q. Does this help you narrow down
10 which Phyllis you were meeting with?

11 A. Around this time we were also
12 setting up -- and I say "We," the company was
13 setting up reverse distribution through GENCO
14 for return of outdated controlled substances.

15 But we were also setting up
16 waste programs and disposal. So each of
17 those would have -- that would have been a
18 factor, or something to consider, as a part
19 of the ordering process.

20 So it could have been either
21 one of those.

22 Q. Okay. You continue in your
23 email, you indicate that Jim was one of the
24 individuals working within the logistics
25 group, that they set thresholds, reviews, and

1 decisions to ship based on the reviews.

2 Do you see that?

3 A. I do.

4 Q. Okay.

5 Who within Walmart would set
6 the thresholds?

7 MR. VARNADO: Object to form.

8 THE WITNESS: I don't know who
9 would have set these exact thresholds.

10 Q. (BY MR. ECKLUND) What is a
11 threshold?

12 A. A threshold, in my -- from my
13 experience? A threshold is an upper end
14 limit. Or lower end limit.

15 Q. Were those thresholds set
16 within Walmart or did those thresholds get
17 set by DEA?

18 A. I don't know, sir.

19 Q. Was asset protection involved
20 in assisting and setting those thresholds?

21 A. No.

22 Q. Okay. Was a decision to set a
23 threshold made exclusively by the logistics
24 group?

25 MR. VARNADO: Object to form.

1 THE WITNESS: I don't know who
2 it was made by.

3 Q. (BY MR. ECKLUND) Well, in your
4 email you wrote that Jim, who was working
5 with the logistics group, that they set the
6 thresholds.

7 A. They would have executed the
8 decision. And during this time, that
9 decision would have been more of a decision
10 of committee. Meaning there would have been
11 more than just logistics making that
12 determination.

13 I don't know who else would
14 have been involved in those or what those
15 variable factors were.

16 Q. Is there a name for this
17 committee you're thinking of?

18 A. No, I mean committee as in --
19 there would have been more than one person or
20 one group making this decision. There would
21 have been input from other areas, such as
22 I'm -- I'm sure, compliance. But again, I
23 was not a part of those meetings, so I don't
24 know that for sure.

25 Q. You continue, you wrote that

1 "Logistics group was also working on
2 reviews."

3 Which reviews were you
4 referring to in your email?

5 A. Those would have been reviews
6 of orders being processed, per whatever those
7 thresholds were.

8 Q. And then you continued,
9 "decisions to ship based on the reviews."

10 Who would be making the
11 decisions to ship?

12 A. Again, that would have been not
13 made by a single person or entity. So I --
14 but I don't know everyone who would have been
15 involved in making that decision.

16 Q. Can you share any of the names?

17 A. I can't. I don't know.

18 Q. You don't recall sitting here
19 today any of the individuals who might have
20 been responsible for making the decision to
21 ship based on the reviews?

22 A. During this time frame, I could
23 not.

24 Q. Are there records within
25 Walmart that could help you understand that?

1 MR. VARNADO: Object to form.

2 Q. (BY MR. ECKLUND) Or identify
3 those individuals?

4 MR. VARNADO: Same objection.

5 THE WITNESS: I cannot think of
6 any.

7 Q. (BY MR. ECKLUND) You
8 continued, "But our team used to get reports
9 of denials when a store's order was rejected
10 for a controlled substance or a store was
11 repeatedly rejected for all other drugs."

12 Do you see where you wrote
13 that?

14 A. I do.

15 Q. What type of reports were you
16 referring to here?

17 A. Those would have been stores
18 that were being -- that were sent to us for
19 review as a result of whatever reviews were
20 taking place within logistics. These would
21 have been those stores that were highlighted
22 and sent to our team to look at.

23 Q. Is there a name for those
24 reports?

25 A. Those would have been, at that

1 time, I believe 405 reports.

2 Q. And what does a 405 report
3 depict?

4 A. It is my recollection, it
5 depicts controlled substances that are above
6 a particular percentage of total order.

7 Q. Are there any other reports
8 that this could be referring to besides 405
9 reports?

10 A. None that I can think of.

11 Q. Do 405 reports concern
12 controlled substances and all other drugs?

13 A. To the best of my knowledge,
14 the focus was on controlled substances.

15 Q. So I'm trying to understand
16 your language in the email. It says, "But
17 our team used to get reports of denials when
18 a store's order was rejected."

19 First, it talks about for a
20 controlled substance or repeatedly rejected
21 for all other drugs. Were there reports that
22 showed those rejections for all other drugs?

23 A. "All other drugs" meaning all
24 classifications, C-II through V.

25 Q. So this -- you're talking

1 specifically about only controlled substances
2 in this sentence?

3 A. That was my intent.

4 Q. You're not talking about any
5 other products sold by the pharmacy? Just
6 controlled substances?

7 A. Yes.

8 Q. And you continued in the next
9 paragraph, "Would it be possible for me to
10 get up to speed on what the thresholds are,
11 and how they were determined?"

12 Did anyone help you get up to
13 speed on the thresholds after you sent this
14 email?

15 A. They did not.

16 Q. No one helped?

17 A. At this particular point in
18 time, there was a larger effort that was
19 taking place in order to consolidate and
20 automate a lot of the reports. And again,
21 continuing to evolve this specific program.

22 Q. Okay. Did anyone help you get
23 up to speed on how these thresholds were
24 determined?

25 A. No, sir. That was the

1 responsibility of the person or persons
2 specifically designated for that purpose.

3 Q. Did anyone help you get up to
4 speed on understanding the rejection rate?

5 MR. VARNADO: Object to form.

6 Q. (BY MR. ECKLUND) Did they tell
7 you why they weren't going to help you get up
8 to speed on these things?

9 MR. VARNADO: Object to form.

10 THE WITNESS: Because it was
11 outside of our lane of traffic in
12 conducting investigations of theft and
13 loss.

14 We obtained the results. And
15 that was what our investigators were
16 responsible for, helping them gather
17 the facts around.

18 Q. (BY MR. ECKLUND) Do you see
19 below, the email from you to Ron Lance,
20 Susanne Hiland and George Chapman.

21 Who is Ron Lance?

22 A. Ron Lance, at this particular
23 point in time, was my boss. He was senior
24 director of asset protection.

25 Q. And George Chapman?

1 A. George Chapman, at this time,
2 was -- he was on the compliance team, but I
3 can't remember if at this time he had been
4 promoted to senior director and controlled
5 that team, or managed that team or not. But
6 both Susanne and George were part of the
7 compliance apparatus.

8 Q. You wrote to your boss,
9 Ron Lance, "Below are a few more of the
10 details from the hearing and ruling
11 yesterday."

12 Did Mr. Lance request details
13 about the CVS and Cardinal hearing that are
14 described in the newspaper article that
15 follow your email?

16 A. He did not request that
17 specifically. That was something because it
18 is my area of responsibility and what he has
19 asked me to manage, that is something that I
20 felt my boss needed to know.

21 Q. Was it important within asset
22 protection to understand what was being
23 evaluated by the U.S. District Court in the
24 Cardinal Health case described in the article
25 below?

1 MR. VARNADO: Object to form.

2 THE WITNESS: From my personal
3 perspective? I think it is valuable.

4 Q. (BY MR. ECKLUND) Did Mr. Lance
5 respond to your email?

6 A. I do not recall.

7 Q. Do you recall any conversations
8 with Mr. Lance concerning this email? Or the
9 outcome of the Cardinal Health case described
10 in the article that you forwarded to him?

11 A. I'm sure we had numerous
12 conversations. But to recall those specifics
13 right now, I can't off the top of my head.

14 Q. Do you recall whether Walmart
15 made any changes in its own audit procedures
16 or within the diversion team in response to
17 the events concerning Cardinal Health
18 described in the article?

19 A. Procedures as in?

20 Q. How you would do what you were
21 doing concerning controlled substances.

22 A. We reviewed, along with
23 compliance, our audit list, the drugs that
24 were being added to the audit list, and
25 making sure that what our audit list was

1 capturing was consistent with the things that
2 were highlighted in the articles, that maybe
3 we need to place stronger due diligence on as
4 an investigations team.

5 Q. Do you recall any specific
6 changes you made within the due diligence
7 team?

8 MR. VARNADO: Object to form.

9 THE WITNESS: I don't recall
10 that far back in a specific.

11 Q. (BY MR. ECKLUND) You wrote in
12 your email, "Ron, below are a few more
13 details of the hearing from yesterday.
14 Initially there were signs that Cardinal and
15 CVS might get a reprieve as the burden of
16 proof was on the government to prove a high
17 bar of public threat."

18 Do you see that?

19 A. I do.

20 Q. What do you mean by "reprieve"?

21 A. As these things were beginning
22 to populate on social media and on the
23 electronic media, there was literally a fear.
24 And "fear" meaning the government is looking
25 in these areas, and they're looking very

1 strongly. But as the immediate suspension
2 orders were being reviewed -- or applied for
3 and being reviewed, the outcome of a few of
4 those hearings were different than what a lot
5 of people thought the outcome would be.

6 Q. You said a lot of people
7 thought they might be. Which people are you
8 thinking of when you say that?

9 A. I'm thinking myself.

10 Q. Anyone else?

11 A. Thinking members of the team
12 that were still there.

13 And there were some
14 discussions, I'm certain with Ron Lance,
15 around "This may be problematic. Maybe we
16 need to go back and take a deeper dive and
17 look at -- and make sure we're not hitting
18 some of these same trip wires."

19 Q. So the people you had in mind
20 in your prior answer were all the people
21 within Walmart?

22 A. Correct. Yeah.

23 Q. Okay. Do you recall any
24 changes in how the thresholds were set or
25 what the thresholds would be being made after

1 this article was released? This case?

2 A. I do not. I was not a part of
3 those conversations.

4 Q. Okay. If you'd turn to the
5 second page of this exhibit, second paragraph
6 describes what the focus of the DEA's
7 investigations were.

8 "An investigation by the DEA
9 found the company's Lakeland" -- and that's
10 in Florida -- facilities shipped a
11 'staggering' amount of oxycodone to four
12 retail customers in the state between October
13 of 2008 and December of 2011."

14 Do you recall whether Walmart
15 made any changes in how it monitored or
16 tracked shipments or distribution of
17 oxycodone in response to this Cardinal
18 decision?

19 A. It was around this time frame
20 that the company did self-impose some
21 additional limits. And that self-imposition
22 resulted in a specific focus on oxycodone,
23 and that oxycodone was limited by a company
24 standard. And each one that was above that
25 was cut and submitted to our team for

1 additional due diligence and review.

2 And that continued to evolve
3 from there, and that was where the focus and
4 effort sprang from.

5 (Walmart-Beam Deposition
6 Exhibit 4, 7-25-12 email from Susanne
7 Hiland. Subj: CS POA, WMT_MDL_
8 000009427-9428, was marked for
9 identification.)

10 Q. (BY MR. ECKLUND) I'm going to
11 hand to you what's been marked as Exhibit 4.
12 It bears Bates stamp 9427. And you'll note
13 that it was sent several months after the
14 email that we just went through. Again, the
15 prior email was sent in March 2012. This is
16 from July 25th of 2012.

17 And it was sent by Ms. Hiland
18 to a number of individuals: Bryan Richard,
19 Matthew Lunde, George Chapman, Tim Harris,
20 you, Mr. Beam, and then Brandon Worth was
21 copied. Do you see that?

22 A. I do.

23 Q. Okay. Matthew Lunde. Who is
24 he?

25 A. Matthew Lunde.

1 At this time was a regional
2 health and wellness director. Meaning he was
3 field-based.

4 Q. So there's nothing unique about
5 these employees, the Walmart employees. The
6 reason I ask is that dash with the MW Lunde
7 next to it is unique to his name and only his
8 name.

9 Do you see that?

10 A. I do.

11 Q. So he's a Walmart employee?

12 A. He is.

13 Q. Okay. Everyone on here is a
14 Walmart employee.

15 A. Mr. Worth is also a Walmart
16 employee.

17 Q. And what was he doing at that
18 point?

19 A. 2012? I believe at that time
20 Brandon had moved from his field-based
21 position to health and wellness innovations
22 at home office.

23 Q. And that was for a promotion?

24 A. At that time it would have been
25 a lateral.

1 Q. Lateral?

2 A. Mm-hmm.

3 Q. Okay. And Bryan Richard, what
4 does he do? At this time?

5 A. He was a senior director --
6 during this time, if I remember correctly,
7 Bryan Richard was a senior director of health
8 and wellness operations. Meaning he would
9 review operational standards, policies. He
10 was a coordinator of multiple things relative
11 to health and wellness.

12 Q. Ms. Hiland wrote, and I -- I
13 suspect that she mistyped it, so I'm going to
14 read it as I think she intended it. But if
15 you think I'm inaccurate, you just tell me.

16 She wrote, "For sake of our
17 discussion this afternoon, here is an outline
18 of the" -- I suspect she meant "processes and
19 changes we have made in the controlled
20 substance program," because "proceeds" would
21 make little to no sense; correct?

22 A. I agree.

23 Q. Okay.

24 "Implement controlled substance
25 order exception review. See attached

1 flowchart. MD will have exception review
2 process to follow."

3 What does that mean, "MD will
4 have"?

5 A. That is the market director.

6 Q. And what is an exception
7 review?

8 A. Exception review is, as it
9 relates to this particular program, in the
10 over 20 report, if there was an over 20
11 report, there was a list of questions that
12 would come to -- that we would send out,
13 meaning our investigative team -- to the
14 market directors. And these were points of
15 clarity around that specific order for the
16 drugs in question, to determine if there was
17 a legitimate reason that could be gleaned or
18 if there was a reason for concern for that
19 volume of order.

20 Q. Okay. So the exception review
21 was part of the investigative process?

22 A. Not the investigative process,
23 the assessment process.

24 Q. And that would precede the
25 investigation?

1 A. Correct.

2 Q. Okay. Were you involved in
3 that process?

4 A. We were involved in the
5 assessment process.

6 Q. Okay.

7 A. And if anything came of that
8 that rose to the level of investigation, then
9 yes.

10 Q. Because you were involved in
11 assessment and, if anything, required an
12 investigation of the assessed order?

13 A. Correct.

14 Q. And at that point, would those
15 orders be considered orders of interest?

16 MR. VARNADO: Object to form.

17 THE WITNESS: Orders of
18 interest in what manner?

19 Q. (BY MR. ECKLUND) Are you
20 familiar with the term "order of interest" as
21 it concerns controlled substances?

22 A. Excuse me?

23 Q. Are you familiar with the term
24 "orders of interest" as it concerns
25 controlled substances?

1 A. I would need your definition of
2 what your intent is -- or what your
3 understanding of that is.

4 Q. We'll go through some Walmart
5 documents.

6 A. Okay.

7 Q. It's --

8 Turn to the next page.

9 "Controlled substances order exception
10 response."

11 Do you see that?

12 A. I do, sir.

13 Q. All right. So "Daily,
14 DC 45" -- and that's DC 6045; correct?

15 A. That is correct.

16 Q. Okay. Reviews C-II -- that's
17 controlled substances -- C-IIs, IIIs are not
18 included, C-IVs are not included and C-Vs are
19 not included?

20 A. Correct.

21 Q. For single item quantity
22 greater than 20. Right?

23 Let's talk about the item
24 quantity. That is specific to an NDC code?

25 A. That is specific to a drug

1 name, and milligram level.

2 Q. Well, let me ask it slightly
3 differently.

4 If you had two suppliers of the
5 same drug name and same strength, dosage
6 size, would those be the same code or a
7 different code?

8 MR. VARNADO: Object to form.

9 THE WITNESS: NDC code is going
10 to be unique to each manufacturer.

11 Q. (BY MR. ECKLUND) Okay.

12 A. Even if it is the same drug.

13 Q. So if you had -- in the next
14 box or diamond, you have oxy 30 milligrams.
15 If you were receiving oxy 30 milligrams from
16 two suppliers, and you got ten from each, is
17 that going to trigger item quantity greater
18 than 20?

19 MR. VARNADO: Object to form.

20 Q. (BY MR. ECKLUND) You have two
21 NDC codes, both for oxy 30, ten orders.

22 Is it going to trigger?

23 MR. VARNADO: Same objection.

24 THE WITNESS: I don't know -- I
25 can't sit here and tell you that that

1 would have triggered an objection -- a
2 rejection. That would have been -- I
3 don't know how that program was set
4 up, and how it was managed.

5 Q. (BY MR. ECKLUND) Okay. Let me
6 ask a different question.

7 If you look at this flowchart,
8 it seems to suggest, based on the prior email
9 and the chart itself, that the focus is
10 specifically on oxy 30 milligrams.

11 Do you see that?

12 A. I do.

13 Q. Do you agree with my
14 interpretation of this flowchart?

15 A. I do.

16 Q. So if, for example, there were
17 50 bottles or 49 bottles of oxy 20
18 milligrams, that would not trigger?

19 MR. VARNADO: Object to form.

20 THE WITNESS: Could you repeat
21 that one more time?

22 MR. ECKLUND: If you changed
23 the dosage strength to something lower
24 than 30 milligrams, it's not going to
25 trigger this exception response?

1 MR. VARNADO: Object to form.

2 THE WITNESS: It would not have
3 met the criteria of this particular
4 rejection, but it is one of those
5 things that a lot -- as logistics
6 fills orders, there is a -- you get to
7 understand and know, based on date of
8 order and which locations within the
9 country are ordering.

10 So we have had, as a result of
11 this process and as we continued to
12 migrate through this process,
13 clarification from store level, did
14 you mean to order 70 bottles? No, I
15 meant seven. So fat-fingering in
16 technology have occurred and other
17 things that have influenced the order
18 process had been identified throughout
19 the system. So a lot of those orders
20 were manually reduced at the warehouse
21 level, just based on that contact and
22 clarification.

23 Q. (BY MR. ECKLUND) Okay. And I
24 appreciate that. So what you just described,
25 you called it fat-finger ordering. And that

1 could be somebody hit the extra 0. Someone
2 hit 4 instead of 2.

3 A. (Witness nods.)

4 Q. I can appreciate that. On the
5 information for that, that would have
6 triggered a flag, if you will, where
7 there's -- something raises a concern. And
8 someone within the warehouse looks and says,
9 "Well, do you know what? This is -- this is
10 something we need to understand better."

11 A. Mm-hmm. (Witness nods.)

12 Q. And they would get that
13 information about what was intended by
14 calling the stores?

15 A. By calling the stores or the
16 pharmacist who placed the order.

17 Q. So the pharmacist in -- within
18 Walmart who placed the order, to restock or
19 get more product; correct?

20 A. Correct. And a lot of these
21 were set up on our replenishment. So
22 sometimes the system would order and the
23 pharmacist would have no input into that.

24 Q. But a fat-finger order couldn't
25 happen on auto?

1 A. Correct.

2 Q. So I'm only talking about that
3 right now.

4 A. Okay.

5 Q. Auto replenishment is not going
6 to happen with fat-fingering. You're not
7 going to be able to hit 70 and mean 7 and
8 have it automatically happening all along;
9 right? That's going to get caught quickly;
10 right?

11 A. Should as soon as the process
12 goes through.

13 Q. And as soon as the process goes
14 through and there's a concern about what
15 might have been a fat-finger order, you're
16 going to -- the warehouse is going to reach
17 out to the pharmacy or the pharmacist who
18 placed the order to ask them questions about
19 that specific replenishment order; correct?

20 A. Correct.

21 Q. Were you ever involved in any
22 conversations with a pharmacist about a
23 replenishment order?

24 A. Not involved with the
25 conversation itself. We were often briefed

1 of the fact.

2 Q. Do you recall any of those
3 briefings, what they discussed?

4 A. Only if it did not make sense
5 to the pharmacy warehouse. We had this
6 conversation, "We think you may want to take
7 a look into this particular location."

8 Q. Well, a fat-finger order would
9 have been pretty simple; right? You call up.
10 The warehouse calls, reaches out to the
11 pharmacist, asks, "Did you intend to order 70
12 bottles?" And they say, "No, I meant seven."
13 That's the end; right? That's fairly simple.

14 Yes?

15 A. Not so simple.

16 Q. What else would you have asked?

17 A. There's a lot of other factors
18 that may have contributed to that. The
19 reach-out to them, and then the reach-out to
20 us. If they're -- if the response is not
21 consistent with what they're looking at, then
22 there had to be other factors. It could be
23 technology factors. It could be human
24 interference factors.

25 So those would have been some

1 of the cases we would have looked into or
2 scoped a little more closely.

3 But there's more factors than a
4 cut-and-dried decision.

5 Q. Even in your hypothetical about
6 fat-finger orders?

7 A. Yes. I -- depends on the
8 responses that they -- that was received by
9 the logistics associates.

10 Q. All right. Let's continue
11 through. So the exception response, Oxy 20
12 would not have followed this exception
13 response flow?

14 MR. VARNADO: Object to form.

15 THE WITNESS: At the time this
16 was created, I do not know if oxy 20s
17 would have triggered because I was not
18 involved in setting up the trigger
19 alerts or the volume amount.

20 Q. (BY MR. ECKLUND) Do you recall
21 at the time whether there was any other
22 exception response that provided for cutting
23 of orders down to 20?

24 So the way the flowchart reads
25 to me is, if the item requested was oxy 30,

1 and it was in excess of 20 bottles ordered,
2 that if it was greater than that, yes, then
3 the order would be cut to the max of
4 20 pieces. Do you see that?

5 A. I do.

6 Q. Do you know where cutting was
7 implemented at this time for other dosage
8 strengths of oxycodone?

9 MR. VARNADO: Object to form.

10 THE WITNESS: I don't have
11 personal knowledge that there were
12 other factors in -- at this time, that
13 would have mitigated other orders, no.

14 Q. (BY MR. ECKLUND) And aside
15 from different dosage strengths of oxy, this
16 would also not have applied to a drug, say,
17 for example, at this time, hydrocodone?

18 MR. VARNADO: Object to form.

19 Q. (BY MR. ECKLUND) Hydrocodone
20 is a different drug than oxycodone; correct?

21 A. Is a different formulation.

22 Q. And this wouldn't have
23 concerned fentanyl?

24 MR. VARNADO: Object to form.

25 THE WITNESS: As a name brand,

1 I don't -- I don't recall -- I've
2 never gotten one on a fentanyl order.

3 Q. (BY MR. ECKLUND) Okay. Is it
4 your understanding that fentanyl is a name
5 brand or is that just a drug?

6 A. My understanding fentanyl is a
7 drug that is produced under a couple of
8 different name brands.

9 Q. And this same controlled
10 substances order exception response wouldn't
11 apply to anything that wasn't a C-II; right?
12 In the first box, it limits to just C-II.

13 A. As I look at this and recall
14 this, this was specifically targeted as
15 oxycodone.

16 Q. How did Walmart determine that
17 cuts to 20 were the sensible approach to
18 take?

19 A. I do not know.

20 Q. Do you recall any conversations
21 about how Walmart determined that 20 was the
22 right number?

23 A. I was not a part of those
24 discussions.

25 Q. Do you recall whether there was

1 ever any discussion about reducing it down
2 further, perhaps to 15, as the epidemic
3 became more obvious?

4 MR. VARNADO: Object to form.

5 THE WITNESS: Those would not
6 have been discussions I would have
7 been a part of at that time.

8 Q. (BY MR. ECKLUND) Do you recall
9 any conversation at all about reducing from
10 20 to a lower number?

11 A. I do not. I don't have
12 personal knowledge of any such discussion.

13 Q. If there had been a change from
14 20 to a lower number, would you have been a
15 part of the team responsible for implementing
16 the exception review process for it?

17 A. I'm sure our team would have
18 been notified and would have had a scoping
19 responsibility at the least.

20 Q. Okay. But sitting here today,
21 you don't have any recollection specifically
22 about a reduction -- further reduction from
23 an order over 20 down to a lower number, say,
24 for example, orders over ten bottles?

25 A. As --

1 MR. VARNADO: Objection, asked
2 and answered.

3 THE WITNESS: As this program
4 continued to improve or continued to
5 be automated in the continual
6 evolution of the overall program, this
7 was driven by a lot of different other
8 factors, and from people in other
9 teams.

10 And there was -- there were
11 specific individuals that were trying
12 to stand up processes in order to get
13 a much better understanding of the
14 data and its sets. And that had been
15 ongoing since before this occurred and
16 has continued after this occurred.

17 Q. (BY MR. ECKLUND) Who were
18 those specific individuals that were trying
19 to stand up processes in order to get a
20 better understanding?

21 A. Specifically that would have
22 been one of the reasons for Miranda Johnson's
23 position.

24 Q. When did Miranda Johnson take
25 that position?

1 A. It was right around this
2 general time frame. I don't know
3 specifically.

4 Q. So your understanding is that
5 Ms. Johnson took on that role somewhere in
6 the neighborhood of July of 2012?

7 MR. VARNADO: Object to form.

8 THE WITNESS: To the best of my
9 recollection, that would be about
10 approximately the same time.

11 Q. (BY MR. ECKLUND) Do you know
12 whether anyone else was serving in that
13 similar role or same role prior to
14 Ms. Johnson in June of 2012, or January of
15 2012?

16 A. I don't recall the specific
17 dates, but there was a predecessor to
18 Ms. Johnson for a period of time named
19 Kristy Spruell.

20 Q. Is it your understanding that
21 Ms. Spruell and Ms. Johnson had the same job
22 or same title?

23 A. I don't know about same title.
24 They did have at a high level the same
25 responsibilities.

1 Q. What is your understanding of
2 what the responsibilities of Ms. Johnson and
3 Ms. Spruell were at the time?

4 A. Their responsibilities at that
5 time was to develop a program and implement a
6 program to examine the movement of controlled
7 substances through Walmart.

8 Q. Did you work directly with
9 Ms. Spruell or Ms. Johnson in the development
10 of that program?

11 A. Not in the development of the
12 program. I worked with Ms. Spruell and
13 Ms. Johnson, helping them understand what we
14 see in the Walmart environment related to
15 those particular drugs. Being controlled
16 substances.

17 Q. Okay. So you weren't involved
18 in the development of the program. Were you
19 involved in the implementation of the
20 program?

21 A. Correct.

22 Q. And the way in which you were
23 involved in the implementation of the program
24 was you shared data with Ms. Johnson and
25 Ms. Spruell about what Walmart could see

1 concerning particular drugs in the
2 marketplace generally?

3 MR. VARNADO: Object to form.

4 THE WITNESS: Not necessarily
5 shared data. Shared observations and
6 trends.

7 Q. (BY MR. ECKLUND) What
8 observations and trends did you share with
9 Ms. Johnson and Ms. Spruell?

10 A. This was in advance of or
11 approximately the same time of the discussion
12 around hydrocodone.

13 So, you know, within our
14 environment, we were able to point them in a
15 direction of here's -- here are the things
16 that we are seeing that are involved in a lot
17 of the investigations that we complete.

18 And within that, some of the
19 methodologies that are being used to remove
20 that drug from our pharmacies, if it is
21 internal.

22 We also discussed the
23 in-transit losses.

24 Q. Now, in your role that touched
25 upon investigations, did -- were you involved

1 in the flow below where you see
2 oxy 30 milligrams and then it goes?

3 "Order filled, notification
4 sent to AP."

5 Do you see that?

6 And then AP runs -- is that --
7 that's your group, AP?

8 A. AP, yes, sir.

9 Q. Okay. So you were getting
10 notification at that point?

11 A. Mm-hmm. (Witness nods.)

12 Q. Okay. And you were getting
13 notification that, for example, there's a
14 daily DC 6045 review of a controlled
15 substance. The orders for a single item
16 greater than 20 bottles. It's oxy 30, no.
17 The order gets filled. If it's not oxy 30,
18 would notification be sent to you at that
19 point?

20 A. From -- after the decision is
21 made to fill or not fill, order -- item No. 1
22 and 2 underneath "No," then that is our
23 process, to run the purchase and dispense.

24 Q. Okay.

25 A. And at this point we also are

1 looking to determine do we have an active
2 investigation at this location already? And
3 if so, is it related to this particular drug
4 in question?

5 If we have run the P&D, and we
6 have no concerns -- or we do not have an open
7 investigation at that particular point, and
8 we can't find -- or we don't see anything of
9 diversion concern, then we send out, our
10 group would send out the review. To be
11 completed by the market director.

12 Q. Okay. And again, this is
13 specific just to oxy 30s, based upon this
14 workflow?

15 MR. VARNADO: Object to form.

16 THE WITNESS: Based upon this
17 workload -- or based upon this form,
18 that was the particular drug of focus.

19 Q. (BY MR. ECKLUND) Okay.
20 Because I'm just trying to understand what
21 this thing was. Right?

22 A. Sure.

23 Q. It says oxy 30 milligrams. If
24 it says no, it's not oxy 30 milligrams, why
25 wouldn't it have concerned hydrocodone or

1 fentanyl or any other product? The answer is
2 now no. It's a controlled substance. It's
3 ordered. The item quantity is greater than
4 20. It's not oxy 30.

5 A. If the -- the way this was --
6 the way I read this, if the order's for
7 oxy 30, and it exceeds the 20, yes, then it's
8 cut, and then it's notified to us.

9 If it is not above 20, and then
10 it is no, then the order is filled.

11 Q. (BY MR. ECKLUND) And what if
12 it's -- it's not oxy at all? If this does
13 not -- this doesn't happen?

14 That's what I'm asking.

15 So if it's greater than 20, I
16 understand you're saying it gets cut to the
17 max, which is 20.

18 A. Right.

19 Q. If it's oxy, and it's under 20,
20 right, then it gets filled, and there's a
21 notification sent to you and your department.

22 A. Mm-hmm. (Witness nods.)

23 Q. What I'm asking is, if it's not
24 oxy, do you still find out that there is --
25 if there's a notification, is a notification

1 still sent to you that -- for example,
2 fentanyl, 20 bottles, filled. It's not oxy.
3 Do you get notifications at that point?

4 A. Not under this particular
5 procedure and process. We would have
6 potentially gotten that information from
7 replenishment as a result of their store
8 level contact with the order itself.

9 Q. Okay. So possibly but not
10 always?

11 A. Agreed.

12 Q. Okay. And for oxy, it was
13 always?

14 A. Correct.

15 Q. Every single time somebody
16 ordered oxy 30 milligrams, you received
17 notification, or your department received
18 notification that the order had been placed,
19 if it was greater than 20, it got cut. If it
20 was under 20, or at 20, it was filled and you
21 got a notification?

22 And for other controlled
23 substances, you may or may not have gotten
24 notification. It depended upon the
25 particular circumstances; correct?

1 MR. VARNADO: Object to form.

2 THE WITNESS: At this time --

3 MR. ECKLUND: Yes.

4 THE WITNESS: -- that would be
5 correct.

6 Q. (BY MR. ECKLUND) Now --

7 MR. VARNADO: Do you guys want
8 to take a little break?

9 MR. ECKLUND: Let's just finish
10 this one real fast.

11 Q. (BY MR. ECKLUND) Okay. So
12 let's talk about AP runs P&D. What is P&D?

13 A. That is a purchase and dispense
14 report.

15 Q. Are those automated reports?

16 A. During this time frame, they
17 were not.

18 Q. Okay. Who would physically
19 create the purchase and dispense reports?

20 A. That would be a member of our
21 analyst group.

22 Q. And would you review the
23 analyst group's work on the purchase and
24 dispense reports?

25 A. Either I reviewed it or the

1 investigator for that given geographic area
2 would review it.

3 Q. Okay. And those are all
4 documented?

5 A. Mm-hmm. (Witness nods.)

6 Q. And then it follows, diversion
7 concerns. Yes, at this point if there was a
8 diversion concern, you would investigate.

9 A. Correct.

10 Q. Okay. And all the
11 investigations would have been documented?

12 A. The investigations would have,
13 if it rose to the level of investigations.
14 There is a difference between scoping and
15 investigations.

16 Q. Okay. So --

17 A. But if -- if it would have
18 had -- if there had been reasons for a
19 diversion concern, yes, there would have been
20 an investigation and it would have been
21 documented.

22 Q. So actually there should be
23 another box here, then; right? It shouldn't
24 be initiation of investigation, it should
25 have been scoping for the potential need to

1 investigate, and then, if yes, then initiate
2 investigation?

3 MR. VARNADO: Object to form.

4 THE WITNESS: This was not --
5 this form and diagram was not
6 completed by our division. It was
7 completed by compliance, who has a
8 different interpretation of what the
9 term "investigation" means.

10 Q. (BY MR. ECKLUND) Okay. So
11 just so we're clear, if there was a diversion
12 concern, the answer is yes, it wouldn't
13 always trigger the initiation of
14 investigation?

15 A. If there was a diversion
16 concern, then it would trigger an
17 investigation.

18 It would go through the same
19 review process and sometimes those diversion
20 concerns, as just going through that
21 diversion process and scoping would be
22 satisfied, and there would not be any reason
23 for a diversion investigation.

24 For example, if there were an
25 in-transit loss that triggered the store to

1 have to order replenishment more heavily
2 because they didn't get the shipment that was
3 ordered and sent the two previous days,
4 because those were diverted through -- from
5 our third-party contractor, then the store
6 has to get the medications in order to serve
7 the patients.

8 Q. Okay. I'm just trying to
9 understand, when you -- I asked you earlier
10 when we were going through this flowchart if,
11 yes, there would have been investigations,
12 would they have been documented? You said,
13 "The investigations would have if it rose to
14 the level of investigations. There's a
15 difference between scoping and
16 investigations."

17 And that's what I'm trying to
18 understand. Okay?

19 If it's an investigation, it's
20 an investigation, or is there something less
21 than an investigation, which is scoping?

22 A. There is something less than
23 investigation.

24 Q. So there's a possibility here
25 that AP would not initiate an investigation.

1 They could initiate scoping. And then if
2 they felt that was sufficient, that would be
3 the end.

4 A. If it answered the questions
5 and removed the concern for diversion, yes,
6 that would have been the end.

7 Q. Okay. So -- and if, as part of
8 scoping or based upon the circumstances, you
9 felt or your team felt or the analysts felt
10 that it warranted a full investigation, or
11 investigation as I understand the term, then
12 an investigation would have been completed?

13 A. That is correct.

14 Q. And it would have been
15 documented?

16 A. That is correct.

17 Q. Would it also -- would those
18 documents concerning the investigation also
19 have been shared with DEA?

20 A. The results would have been
21 shared with the DEA at the discretion of
22 compliance. They were the ones that had the
23 communication with the DEA during this time.

24 Q. Okay. Now, as you go to the
25 bottom -- through the bottom of the

1 flowchart, so if there were no diversion
2 concerns, you would send a controlled
3 substances exception notification to the
4 managing director?

5 A. Market director.

6 Q. Market director? Sorry.

7 And you would copy --

8 A. The regional director.

9 Q. Okay.

10 A. And that regional director also
11 has a divisional director.

12 Q. Okay.

13 A. And PC is the senior director
14 of practice compliance.

15 Q. And at the time, who was the
16 senior director of practice compliance?

17 A. At that time, that would have
18 been Susanne.

19 MR. ECKLUND: Why don't we take
20 that break.

21 MR. VARNADO: Sure.

22 VIDEOGRAPHER: 11:26. We are
23 off the video record.

24 (Recess taken, 11:26 a.m. to
25 11:38 a.m.)

1 THE VIDEOGRAPHER: 11:38. We
2 are on the video record.

3 THE WITNESS: In reflecting,
4 I'm looking at the email and the line
5 of questioning we just had gone
6 through.

7 MR. ECKLUND: Sure.

8 THE WITNESS: And in that line
9 of questioning, there's that vertical
10 process of whether that would have
11 applied to anything outside of
12 oxycodone 30 milligrams.

13 And there have been a lot of
14 nights that have passed since all of
15 this have been implemented and a lot
16 of progress made since then. But this
17 would have applied to controlled
18 substance orders, period. The cutting
19 would have been at the Oxycodone
20 30-milligram. Because I can tell you
21 precisely that we have reviewed orders
22 on methadone. We have reviewed orders
23 on hydromorphone.

24 So the focus on it was there,
25 but the cuts themselves were focused

1 on oxy 30.

2 Q. (BY MR. ECKLUND) Okay. So I
3 appreciate you trying to help us all get a
4 clear transcript and clear understanding. So
5 just help me understand this again, then.

6 So that -- earlier you said
7 that the notifications would be sent, and AP
8 would run; right? You would do what you
9 needed to, diversion. Are you now saying
10 that the entire flowchart below
11 oxy 30 milligrams would have been employed in
12 the same way for all of the other controlled
13 substances?

14 A. Agreed. Yes.

15 Q. So that includes C-IIIs?

16 A. C-IIs.

17 Q. So C-IIs?

18 A. Correct.

19 Q. And it's for everything. And
20 you would have filled the orders. There
21 would have been notification sent to you.
22 You would have done what you needed to do.
23 You would have assessed diversion concerns.
24 There would have been scoping or an
25 investigation. You're not --

1 A. Correct.

2 Q. You're still confident that was
3 a scoping process and sometimes there was no
4 investigation, and other times there were
5 investigations?

6 A. Yes.

7 Q. And for every one of those
8 C-IIs, whether it was oxy or any of the
9 others, there would be documentation
10 reflecting all the investigations?

11 A. There would be investigation
12 documentation, yes.

13 Q. And all of those investigations
14 would have been provided to DEA?

15 MR. VARNADO: Object to form.

16 THE WITNESS: I'm not the one
17 that would have followed that. It
18 would have been followed through
19 compliance. If there was a loss
20 associated with that or there was
21 notification, then that would have
22 been compliance's lane of traffic.

23 Q. (BY MR. ECKLUND) Do you know
24 if you've seen this document before? It's a
25 response to a discovery request. You may

1 have seen it and you may not have.

2 A. Sure.

3 Q. It might have been something
4 you reviewed in connection with your
5 operations. I'm not asking specifically
6 about operations, but it was formerly marked
7 as a composite exhibit in the deposition of
8 Ms. Johnson, who you mentioned earlier.

9 And you're looking at the
10 screen.

11 A. I'm waiting. My apologies.

12 Q. Now, let's just check off a few
13 boxes here.

14 So, Mr. Beam, do you see this
15 time period here, 2010 to 2014?

16 A. Yes.

17 Q. This policy. You were there
18 during that period of time; correct?

19 MR. VARNADO: Object to form.

20 Q. (BY MR. ECKLUND) You were a
21 Walmart employee within the 2010 to 2014 time
22 period?

23 A. I was.

24 Q. Okay.

25 And you were a Walmart employee

1 in the 2015 time period; correct?

2 A. I was.

3 Q. Okay. And 2016 and '17?

4 A. Correct.

5 Q. And we already established all
6 of these other time periods.

7 So each one of the documents
8 described here, you were a Walmart employee
9 during each time period? Do you see that?

10 A. I do.

11 MR. VARNADO: He can see it.

12 Q. (BY MR. ECKLUND) Mr. Beam, if
13 you can't see it, just raise your hand, clap,
14 make a sound. I'll do something else. Okay?

15 A. I saw your pen strokes.

16 Q. Okay. All right.

17 Now I want to go through this.

18 Now, this is the response from
19 Walmart. This is what they've told us. So
20 if you disagree with any of this, I want you
21 to holler. And tell me what you disagree
22 with. Okay?

23 We're going to go through it.

24 "From as early as 1994 until
25 2010, employees in Walmart's pharmacy

1 distribution centers reviewed controlled
2 stock drug exception reports. Followed up on
3 orders by speaking with pharmacists and
4 escalated issues to market and/or region
5 leadership as needed to investigate and/or
6 resolve concerns."

7 Do you see that?

8 A. I do.

9 Q. Were you involved in the
10 assessment investigation of those orders?

11 A. From 2006 forward and during
12 that time frame. I can't speak to anything
13 prior to 2006.

14 Q. Right. I understand that.

15 A. But as the term "investigate"
16 here refers, we were not a part of that
17 particular process.

18 Q. Okay.

19 So you were not involved, if I
20 change it now, 2006 until 2010?

21 A. 2006-2010, we were getting --
22 we were -- that's when some of those reports
23 began rolling out and incorporating as a part
24 of our team. Because now we were -- at that
25 particular point, we were taking a look

1 through the exception reports.

2 Q. Okay.

3 Do you see the next bullet,
4 "From approximately 2004 until at least
5 August 2010, consistent with direction from
6 DEA, employees in Walmart Schedule II
7 distribution center, Distribution Center 6045
8 faxed monthly reports to Little Rock DEA
9 office based on their review of controlled
10 drug stock exception reports."

11 Now, let's just talk through.
12 Now, it is my understanding that the
13 Little Rock DEA would be the field office
14 closest to DC 6045.

15 Is that consistent with your
16 understanding?

17 A. That is my understanding.

18 Q. And the regulations require you
19 to notify the field office for DEA; correct?

20 MR. VARNADO: Object to form.

21 Q. (BY MR. ECKLUND) Do you have
22 an understanding of that or no?

23 A. That is -- that is within the
24 DC area and distribution. I'm not familiar
25 with DC -- all the DC requirements.

1 Q. Do you recall receiving any
2 direction from DEA?

3 A. No. Not me particularly.

4 Q. Okay. Do you recall receiving
5 any information from other employees within
6 Walmart about direction that was provided by
7 DEA?

8 A. I do not recall anything
9 specific.

10 Q. Do you know whether it
11 happened?

12 MR. VARNADO: Object to form.

13 THE WITNESS: I don't -- I was
14 not a part of those conversations with
15 the distribution centers.

16 Q. (BY MR. ECKLUND) Okay.

17 It continues, "From
18 approximately 2010 until approximately 2015,
19 employees in Walmart's pharmacy distribution
20 centers reviewed controlled drug stock
21 exception reports and internally circulated
22 listing all stores' items above 4 percent for
23 further review and follow-up if needed."

24 Do you see that?

25 A. I do.

1 Q. Do you know whether that policy
2 was limited to just controlled substances?

3 A. I recall controlled substances
4 being the majority of what we reviewed, but I
5 don't have a specific recollection of every
6 drug that may have been on that 4 percent
7 report.

8 Q. Okay. Now, it continues, that
9 there was follow-up as needed.

10 Were you involved in the
11 follow-up described in that bullet?

12 A. We were.

13 Q. How would you be involved in
14 the follow-up?

15 A. By going through a similar
16 process. That's where the purchase and
17 dispense reports would have been reviewed to
18 determine when the last time we were in that
19 particular store, when is the last time we
20 looked at the inventory there. And also, if
21 there was additional investigative necessary.

22 Q. Okay. And those investigations
23 would have been documented?

24 A. If there was an investigation.

25 Q. For controlled substances?

1 A. Yes.

2 Q. For all products or just
3 controlled substances?

4 A. If it involved anything outside
5 of controlled substances, and there was an
6 investigation, it would have been documented.

7 Q. Okay. Thank you.

8 All right. The next bullet,
9 "From approximately 2011 until approximately
10 2015, Walmart implemented order alerts in
11 Reddwerks."

12 What's Reddwerks?

13 A. It is a system within
14 logistics' ordering process for health and
15 wellness. That's the extent of my knowledge
16 of it.

17 Q. Have you ever looked at
18 Reddwerks?

19 A. I have not.

20 Q. Have you ever used Reddwerks?

21 A. No.

22 Q. Okay. Do you know whether
23 Reddwerks is a warehouse execution software
24 or is it a diversion compliance software?

25 MR. VARNADO: Object to form.

1 THE WITNESS: I don't know how
2 many different ways it could be used.

3 Q. (BY MR. ECKLUND) Are you
4 familiar with a company called Dematic?

5 A. I'm not.

6 Q. D-E-M-A-T-I-C.

7 A. No.

8 Q. Okay. Are you aware that
9 Reddwerks was acquired by Dematic and it was
10 Dematic Reddwerks. Now it's just Dematic?

11 A. I was not aware of it.

12 Q. Do you know whether Walmart
13 uses any Dematic software in its warehouse
14 execution software groups?

15 A. I can't speak to that.

16 Q. Okay. All right. So it talks
17 about Walmart's order fulfillment system.
18 And that would be part of warehouse
19 execution; correct? Fulfilling shipments and
20 systems?

21 A. That would be my understanding.

22 Q. Okay. So this is -- this is to
23 make sure that the DC 6045 or any other DC
24 that's shipping, that they know what's been
25 shipped to which other parts of the country;

1 correct?

2 MR. VARNADO: Object to form.

3 THE WITNESS: I don't know what
4 it would reveal within those systems.

5 Q. (BY MR. ECKLUND) Okay. And
6 then it says that "Flagged orders for
7 controlled substances of 50 bottles or more
8 and orders for amounts 30 percent higher than
9 a rolling four-week average for that item."

10 Do you see that?

11 A. Yes, sir.

12 Q. Okay. So earlier we were
13 talking about the over 20 cut. This one is
14 flagging at 50. Do you know whether over 50
15 was for just controlled substances, or any
16 product within the pharmacy group?

17 A. I don't recall specifically all
18 of the drugs that it had applied to. But I
19 do recall the over 50 report.

20 I do know that it did include
21 controlled substances.

22 Q. But sitting here today you
23 don't know whether it also included other
24 prescription drugs?

25 A. Off the top of my head, I

1 cannot recall that specifically.

2 Q. And if it did include other
3 prescription drugs, it would be fair to say
4 it wasn't focused on limiting controlled
5 substances exclusively?

6 MR. VARNADO: Object to form.

7 THE WITNESS: I don't know what
8 it would have been -- I don't know
9 what the purpose was other than to
10 alert. And we were to respond from
11 those alerts and do our due diligence.

12 Q. (BY MR. ECKLUND) Right. But
13 I'm asking you a fairly discrete question.

14 So if the over 50 reports
15 applied to birth control, by way of example,
16 and antibiotics, and controlled substances,
17 those are all prescription drugs?

18 A. Those are -- correct.

19 Q. And if the over 50 limitations
20 described here were to apply to birth control
21 medications, because of concerns about
22 stock-keeping and warehouse concerns, it
23 would be a fair assumption that this over 50
24 program was not intended to address
25 specifically controlled substances. It was a

1 broader purpose.

2 MR. VARNADO: Object to form.

3 THE WITNESS: I can't -- I
4 can't answer that, because I was not a
5 part of establishing this.

6 Q. (BY MR. ECKLUND) Well, how --
7 how could it be specific to controlled
8 substances if it included products that were
9 not controlled substances?

10 MR. VARNADO: Object to form.

11 THE WITNESS: The only results
12 that I've seen coming out of this tool
13 were controlled substances. There may
14 have been others from time to time,
15 but I do not recall any birth control
16 or antibiotics being a part of the
17 exception report.

18 Q. (BY MR. ECKLUND) Do you know
19 how they arrived at the 30 percent or higher
20 threshold?

21 A. No, sir.

22 Q. Do you recall any discussions
23 regarding whether 30 percent was the right
24 number?

25 A. I was not part of, no.

1 Q. Do you recall any
2 correspondence that suggested that 40 percent
3 should have been the number?

4 A. I have never seen
5 correspondence to that effect.

6 Q. 20 percent?

7 A. No.

8 Q. Anything different than 30?

9 A. I was not involved in any of
10 the percentages or any of the thresholds or
11 establishing those goals.

12 Q. Okay. If you'd go to the next
13 bullet. From approximately July of 2012
14 until approximately 2015 -- and you recall
15 the workflow we were working through earlier,
16 that's from July 2012; correct?

17 A. That is.

18 Q. Okay. So that's probably what
19 we're talking about here. Fair?

20 A. Mm-hmm. (Witness nods.)

21 Q. Okay. Let's talk about there
22 now.

23 It says, "Employees in
24 Walmart's DC 6045 implemented a hard limit of
25 20 bottles for shipments of oxycodone

1 30 milligrams."

2 What's a hard limit?

3 A. That was -- they were going to
4 ship no more than that. That's why those
5 orders were cut.

6 Q. Okay. So automatically cut,
7 you couldn't get 21 bottles, even if the
8 pharmacy called up and said to someone in
9 your group, "We have legitimate reason for
10 all of these pills."

11 A. Our group would not have made
12 that decision. But 20 was the limit, and
13 that was a -- that was a hard ceiling at that
14 time.

15 Q. And there were no exceptions,
16 workarounds or other ways to get more than
17 20?

18 A. None that I am aware of.

19 MR. VARNADO: Object to form.

20 Q. (BY MR. ECKLUND) And is there
21 anyone else in the company that would be
22 aware if there were any exceptions to the
23 hard limit of 20?

24 A. I don't know, sir.

25 Q. Let's continue.

1 So it talks about the hard
2 limit of 20 for shipments of oxycodone, and
3 then internal circulation of a report listing
4 orders for Schedule II controlled substances
5 of more than 20 bottles for further review
6 and follow-up as needed.

7 So again, the hard limit for
8 oxycodone was 20 bottles, and for other
9 controlled substances, if it was an order of
10 19 or less, it would not have been included
11 in the report described in this bullet point;
12 correct?

13 A. That is -- that is my
14 understanding, yes.

15 Q. On -- this is the response from
16 the company, so if it's incorrect, you need
17 to tell us that.

18 MR. VARNADO: Object to form.

19 THE WITNESS: I can't respond
20 on behalf of the company, because I'm
21 not aware of all of the programs that
22 would -- that this would have impacted
23 or decisions points that would have
24 gone into this.

25 I can respond to what our group

1 did.

2 MR. ECKLUND: Okay.

3 Q. (BY MR. ECKLUND) So sitting
4 here today, you're not aware of any
5 exceptions to the hard cap of 20 for
6 oxycodone, and you're not aware of any
7 circulations of a report listing orders for
8 Schedule II controlled substances of less
9 than 20 bottles?

10 MR. VARNADO: Object to form.

11 THE WITNESS: I'm not aware of
12 them being identified as exceptions,
13 but there were multiple reports. And
14 we can pull purchase and dispense
15 reports for any time frame, going
16 across the spectrum. But I'm not
17 aware of any exception reports where
18 that would be flagged.

19 Q. (BY MR. ECKLUND) Where does it
20 say it's an exception report? It says
21 "internally circulated report, listing orders
22 for Schedule II."

23 A. At the top it leads out with
24 "exception reports," but you are correct.
25 That paragraph does not list the exception.

1 Q. So I'm asking, are there
2 reports that tracked orders of 19 bottles of
3 other controlled substances, C-IIs, C-IIIs,
4 C-IVs, C-Vs? Within that window of time,
5 between July 2012 and approximately 2015,
6 we've got a specific parameter for oxycodone
7 30 milligrams, and it's only oxycodone
8 30 milligrams. And then -- and that's a hard
9 limit of 20 bottles. Which meant if you
10 ordered 40, it got cut to 20. The order
11 would get filled at 20, and then there would
12 be an investigation potentially.

13 A. Mm-hmm.

14 Q. Maybe just scoping.

15 And for other Schedule IIs,
16 there was an internally circulated report
17 listing orders for other controlled
18 substances, C-IIs, of more than 20 bottles.

19 Do you see that?

20 A. I do.

21 Q. Okay. So a couple of questions
22 on that.

23 First is, "internally
24 circulated report," which means it wasn't
25 externally circulated to, say, for example,

1 the DEA.

2 A. I don't know what has been
3 shared with the DEA.

4 Q. Well, it's an internally
5 circulated. Would it be custom within
6 Walmart to circulate an internally circulated
7 report outside of the company?

8 MR. VARNADO: Object to form.

9 THE WITNESS: I was not -- I
10 have never seen these responses prior
11 to now and I don't know what would be
12 communicated outside of the company or
13 by whom.

14 Q. (BY MR. ECKLUND) Okay.

15 For orders of 19 bottles or
16 lower, there would be no report, according to
17 this bullet point; correct?

18 A. I do not recall receiving
19 reports for less than 20 bottles on here.

20 Q. And if you didn't receive a
21 report, you would also not have conducted any
22 assessment, scoping, or investigation;
23 correct?

24 MR. VARNADO: Object to form.

25 THE WITNESS: Relative to this

1 program, correct.

2 Q. (BY MR. ECKLUND) And the only
3 exception to that would be if the pharmacy or
4 someone else notified you of a concern
5 specific to that order; correct?

6 MR. VARNADO: Object to form.

7 THE WITNESS: Relative to this
8 program, correct.

9 Q. (BY MR. ECKLUND) And would
10 these bottle limits that are described here,
11 would these have been concerned with NDC
12 codes or would these be based on family?
13 Does it tell you?

14 A. This does not tell me.

15 Q. From your experience reviewing
16 those reports, the over 20 reports, and these
17 internal circulations concerning Schedule II
18 controlled substances, more than 20 bottles
19 for further review and follow-up as needed,
20 do you recall whether those were broken down
21 by NDC code, by family, or by particular drug
22 type and dosage?

23 A. From my personal experience in
24 what I have reviewed, those would come in by
25 NDC code.

1 Q. Okay. So then you could have
2 an NDC code for, by way of example, one
3 supplier, supplier A, and they're providing
4 you 19 bottles of a controlled substance,
5 C-II, and you could have the same drug and
6 the same dosage provided -- because it's a
7 multisource generic in this hypothetical,
8 okay? It's a multisource generic. Supplier
9 A, supplier B, they both give you 19 bottles.
10 There would be no report based on this
11 bullet.

12 MR. VARNADO: Object to form.

13 THE WITNESS: That would be
14 incorrect.

15 Q. (BY MR. ECKLUND) How would
16 it --

17 A. Because it -- if this was
18 coming from the DC, the DC would have
19 controlled how many and what bottles went to
20 a particular location, regardless of NDC.

21 So if it is oxy 30, regardless
22 of the NDC, that total number is taken into
23 account when the order is placed. And the
24 shipment documents, if there were four
25 bottles, two were of this NDC and two were of

1 another NDC, the total would have been
2 listed. And that was -- would be what the
3 trigger amount, or what the exception would
4 have been triggered off of.

5 Q. So it's not triggered by the
6 NDC total because the NDCs are unique to each
7 product. It's triggered by the bottles and
8 the drug type and milligram?

9 A. Yes.

10 Q. So the dosage strength and the
11 drug type?

12 A. Dosage strength, drug type.

13 Q. What about combination
14 products?

15 So by way of example, an opioid
16 mixed with a dosage of acetaminophen?

17 A. There was a -- there was a
18 period when the federal government reduced,
19 mandated the reduction of acetaminophen
20 combinations. As I recall, whenever that
21 occurred, the distribution center took steps
22 to eliminate those NDCs that exceeded that
23 federally mandated amount of acetaminophen
24 from the inventory, and also send all of the
25 existing stock either back to the

1 warehouse -- or back to the -- through
2 reverse distribution or back to the
3 warehouse.

4 But I do not recall the
5 specific dates.

6 Q. Okay. Turning to the next
7 bullet, "From approximately 2015" --

8 MR. VARNADO: Can you pull it
9 up a little bit? It's just a little
10 sideways.

11 That's much better. Thank you.

12 Q. (BY MR. ECKLUND) So "From
13 approximately 2015 through November of 2017,
14 Walmart implemented enhanced thresholds in
15 Reddwerks and a tiered review process
16 involving teams from Walmart's health and
17 wellness logistics and practice compliance
18 divisions for orders placed by its
19 pharmacies."

20 Do you see that?

21 A. I do.

22 Q. Was that a supplement to the
23 processes described above, or was this a new
24 approach?

25 A. This was an evolution that

1 included a part of the above described
2 approach.

3 Q. So the hard limits for
4 Oxy 20 -- or sorry, oxy 30, 20 bottles, those
5 continued through November 17th?

6 A. The hard limits on the
7 20 bottles was -- that evolved. And that was
8 a little bit relaxed based on some of the
9 things that were occurring here.

10 And as this program continued
11 to evolve, it evolved based on not only
12 additional information, but also feedback
13 that was coming back on what areas and --
14 what would make it an exception. Because it
15 was -- at the time we started, we started
16 with a hard limit.

17 And as it progressed forward,
18 does that hard limit make sense for all
19 orders everywhere?

20 That's when it got specific to
21 the team.

22 Q. Okay. So help me understand
23 what you just described.

24 The evolution of this hard
25 limit, would it have enabled the DC 6045 to

1 ship more than 20 bottles?

2 MR. VARNADO: Object to form.

3 THE WITNESS: That, I don't

4 know. Because as these things were

5 being incorporated, that was between

6 compliance and logistics.

7 Q. (BY MR. ECKLUND) Okay. So
8 when you -- when you testified "And as it
9 progressed forward, does that hard limit make
10 sense for all orders everywhere?" That's
11 what I'm trying to understand. If it's
12 either still a hard limit, where you couldn't
13 get more than 20, or it's not.

14 So why would it matter if it
15 made sense?

16 A. The thing that I can tell you
17 is that the over 20 and over 50 report lasted
18 for a period of time. And after that period
19 of time, we did not receive any more of those
20 exception reports.

21 That was because the
22 exceptions -- or not the exceptions -- that's
23 because the monitoring of that was then
24 incorporated as a part of this larger system.

25 Q. And is it your understanding at

1 that time that they still had hard limits at
2 20?

3 A. I did not know what the limits
4 were at that time. I was not a part of that
5 conversation, or evolution of this.

6 Q. Were you part of the team
7 described in this bullet? The team involving
8 Walmart's health and wellness, logistics and
9 practice compliance divisions?

10 A. No, sir.

11 Q. Okay. And the following
12 bullet, "From November 2017 until the end of
13 the relevant time period, when Walmart ceased
14 all distributions of controlled
15 substances" -- and I just want to ask a
16 couple of questions about that.

17 First, did Walmart seek -- is
18 it your understanding that Walmart ceased
19 distribution of all controlled substances or
20 just prescription opioids?

21 A. My understanding is they have
22 ceased operations of all controlled drugs or
23 all substances from the warehouse that were
24 controlled.

25 Q. Okay.

1 Do you know whether Walmart
2 still dispenses prescription opioids?

3 A. I can say we do.

4 Q. Do you know from whom those
5 prescription opioids are supplied to Walmart,
6 which entity provides them to the Walmart
7 stores for dispensing to patients?

8 A. The controlled substances now
9 come from McKesson.

10 Q. Okay. And in your role within
11 auditing and asset protection, do you have
12 any involvement with the McKesson
13 distribution?

14 MR. VARNADO: Object to form.

15 THE WITNESS: I don't have any
16 involvement with the distribution. We
17 receive data.

18 Q. (BY MR. ECKLUND) Okay. What
19 data do you see from McKesson?

20 A. What their shipment information
21 is.

22 Q. And do you know whether
23 McKesson or Walmart is primarily responsible
24 for this suspicious order monitoring or
25 attempts to understand potential diversion?

1 MR. VARNADO: Object to form.

2 THE WITNESS: That is between
3 compliance and McKesson. We're not
4 part of that discussion.

5 Q. (BY MR. ECKLUND) And if there
6 was a concern raised by compliance about a
7 potential diversion concern, would Walmart
8 and your group analyze and investigate and
9 assess it or would it be something that would
10 be handled by McKesson?

11 MR. VARNADO: Object to form.

12 THE WITNESS: If there was a
13 reason for theft of pre-exist -- is
14 that what you're --

15 Q. (BY MR. ECKLUND) Not that,
16 diversion.

17 A. Okay. If it is theft or
18 diversion, then there's a lot of variables
19 that would go into that, that it would -- it
20 may include our group, it may not. Depends
21 on what the variables are.

22 Q. What variables might trigger
23 your involvement?

24 A. If there were strong suspicion
25 of that. If there was in-transit losses. If

1 there were things that stopped the order
2 from -- that we ordered from McKesson to
3 actually making it to the store. And then
4 after it got to the store, what happened to
5 the drugs thereafter.

6 Q. So you would be principally
7 involved in investigations where there was a
8 concern that one of the employees within
9 Walmart may have been involved in a theft or
10 potential loss?

11 A. Correct.

12 Q. Okay. And if there were
13 something involving the shipping, from
14 McKesson, McKesson ships on its own trucks to
15 Walmart? Or do they use Walmart trucks to
16 deliver product to Walmart?

17 A. They ship through their own
18 mechanisms. I don't know all of the
19 mechanisms they use, but they do not use
20 Walmart distribution.

21 Q. All right. So your involvement
22 would most likely be triggered by events that
23 occurred after delivery by McKesson to
24 Walmart?

25 A. Yes. If there was a shortage,

1 that then we would be notified at that time,
2 and then we would start looking back and
3 moving forward.

4 Q. Okay.

5 Then it continues, "Walmart
6 used the Buzzeeo system to analyze orders from
7 Walmart's pharmacies and flag orders of
8 interest which were reviewed by Walmart's
9 health and wellness practice compliance
10 personnel?"

11 Do you see that?

12 A. Yes, sir.

13 Q. Do you know what Buzzeeo is?

14 A. I do not.

15 Q. Have you ever had any occasion
16 to use any systems that were provided by
17 Buzzeeo?

18 A. None that I'm aware of.

19 Q. Okay. We talked earlier about
20 orders of interest.

21 That's a term that you used in
22 your role within asset protection?

23 A. No. I mean, it's not common
24 terminology within asset protection or global
25 investigations.

1 Q. And you would not have been
2 involved in the review described here because
3 you're not within the health and wellness
4 practice compliance group?

5 A. Correct.

6 Q. Okay.

7 And you would also not have
8 been involved in the reporting of any orders
9 of interest identified using the Buzzeo
10 system; correct?

11 A. Correct.

12 Q. Because you've not used the
13 Buzzeo system?

14 A. (Witness nods.)

15 Q. For purposes of completion,
16 there is a last bullet point. "For the
17 entire relevant time period, employees in
18 Walmart's pharmacy distribution centers
19 monitored orders."

20 Were you involved in the
21 monitoring of any orders?

22 MR. VARNADO: Object to form.

23 THE WITNESS: Not in the
24 ordering, no.

25 Q. (BY MR. ECKLUND) Well, I want

1 to turn back to the prior flowchart. I
2 wanted to talk a little bit more about the
3 cutting.

4 So this document generated on
5 or about July 2012. And we talked a little
6 bit about this document. It was the fifth
7 bullet down in what I had shown you
8 previously.

9 MR. VARNADO: The fifth bullet?

10 MR. ECKLUND: On this document,
11 the fifth bullet. Right here. I
12 could keep that up there if you want.

13 Q. (BY MR. ECKLUND) So this is
14 describing that flowchart, and the flowchart
15 talks about cutting.

16 And this was all done in or
17 around July of 2012.

18 What I'm curious about is, how
19 did you determine that it was appropriate to
20 cut the orders?

21 Was there discussions within
22 Walmart?

23 MR. VARNADO: Object to form.

24 THE WITNESS: I don't know in
25 total. There were no discussions with

1 our team.

2 Q. (BY MR. ECKLUND) Okay. Are
3 you familiar with a case involving a company
4 named Masters? Masters Pharmaceuticals,
5 Inc.?

6 A. Off the top of my head,
7 that's --

8 Can you outline for me what the
9 case was about? Maybe that will help me
10 recall.

11 Q. It involved concerns about
12 diversion. It involved the DEA. It involved
13 enforcement actions brought by the Department
14 of Justice. It involved a number of
15 different locations that were being supplied
16 by this defendant.

17 I don't want to summarize the
18 entire decision for you, but if you want to
19 read it.

20 A. It's not ringing a bell.

21 Q. Okay. So I'm curious about, in
22 the prior document you circulated to your
23 direct supervisor, correspond -- or I'm
24 sorry, an article concerning Cardinal and CVS
25 and oxycodone. Do you remember that?

1 A. Yes, sir.

2 Q. And it was not your habit or
3 custom to routinely search online and try and
4 find out what's going on as far as DEA,
5 controlled substances, diversion. This was
6 just happenstance that you found the Cardinal
7 article, or did you routinely look for stuff
8 like that on the internet?

9 A. As a part of my job, I try to
10 keep current on the environment, and where
11 the pressure points are.

12 Q. Okay. And as part of your job,
13 would you have also considered administrative
14 law judge decisions?

15 So decisions that come from the
16 enforcement actions brought by the DEA?

17 A. If those were recent. I'm not
18 going -- I did not research each and every
19 decision that was ever rendered in a
20 controlled substance action, but I tried to
21 keep current on what the -- what was relevant
22 in the social media at that particular time,
23 and what the major focus was.

24 Q. Okay.

25 So within the Federal Register

1 at Volume 80, No. 178 dated Tuesday -- I
2 haven't put it up yet -- September 15, 2015,
3 there was notice of an administrative law
4 judge's decision. And it's a -- I would
5 characterize it as a fairly robust decision.
6 It's fairly lengthy for an administrative law
7 judge. It's dozens of pages long. And
8 within the judge's decision, which ultimately
9 was appealed to the circuit court, the judge
10 wrote about cutting of orders. And what the
11 judge wrote was, "As explained above, because
12 the purpose of the -- this law, effectively,
13 was to determine whether a customer's orders
14 were of unusual size and thus suspicious,
15 Respondent's practice of editing or deleting
16 those orders which placed a customer over its
17 controlled substance limit subverted the
18 SOMs, the suspicious order monitoring that
19 they had in place.

20 Whether Respondent's employees
21 edited or deleted orders with the intent to
22 divert its obligation to report suspicious
23 orders is irrelevant because the regulation
24 does not require proof of any level of
25 scienter."

1 And the judge continues and
2 talks how the cutting could effectively do
3 just that. That in the testimony in that
4 case, a gentleman, Mr. Corona, had testified
5 that it was common practice for the
6 compliance department to either edit or
7 delete orders for controlled substances if
8 the order was above the customer's threshold
9 and there was not a reason to increase the
10 threshold.

11 So effectively a hard limit.

12 And though this was not
13 intentionally done to subvert respondent's
14 responsibility to report suspicious orders,
15 it in effect did just that. Okay?

16 What I'm wondering is, this
17 decision came out in 2015, from the
18 administrative law judge. You're not aware
19 if that decision animated any changes?

20 A. I'm not --

21 MR. VARNADO: Object to form of
22 the question.

23 THE WITNESS: I'm not aware.

24 Q. (BY MR. ECKLUND) Okay. So it
25 wasn't something that you considered, and it

1 wasn't something that you are aware of being
2 considered as part of this program?

3 A. It's not something that came up
4 as a discussion point. So I don't know what
5 was considered.

6 Q. If the compliance department
7 had brought this decision to your attention
8 and said, "This decision just came out
9 against Masters. We'd like you to consider
10 it as part of your asset protection and the
11 investigations that you're completing," is
12 that something you would have done?

13 MR. VARNADO: Object to form.

14 THE WITNESS: That is outside
15 our scope in terms of determining what
16 is suspicious and what is not from a
17 cutting perspective. That is going to
18 be between compliance and the other
19 remaining groups. We would execute
20 based on their decisions.

21 Q. (BY MR. ECKLUND) What role did
22 asset protection have vis-à-vis distribution?
23 What was your role? How did you guys fit
24 within distribution?

25 MR. VARNADO: Object to form.

1 THE WITNESS: We didn't fit
2 within distribution. We fit on the
3 back end, after distribution, while
4 distribution is in process or after
5 the fact.

6 Q. (BY MR. ECKLUND) Okay. So you
7 were not involved on the front end, and you
8 would only be brought in if the circumstances
9 warranted it, because of a hard limit being
10 exceeded, or specific circumstances being
11 raised that would have triggered an
12 investigation or scoping.

13 MR. VARNADO: Object to form.

14 THE WITNESS: And as well as
15 theft, in-transit losses, those types
16 of events, yes.

17 Q. (BY MR. ECKLUND) Do you
18 remember a C-II utilization review?

19 A. I remember the term, but I do
20 not recall exactly what it was referencing.

21 Q. Do you remember participating
22 in any webinars to learn more about how asset
23 protection could assist in its role within
24 C-II utilization? A webinar? Would have
25 been in around July of 2012?

1 MR. VARNADO: Object to form.

2 THE WITNESS: I don't recall.

3 Q. (BY MR. ECKLUND) Do you know
4 whether George Chapman, Susanne Hiland,
5 Brandon Worth, Tim Harris and you were all on
6 the diversion team in or around September of
7 2012.

8 I'll give you the names again.
9 Chapman, Hiland, Worth, and Harris.

10 A. Worth was not on the compliance
11 team. But the remainder, to my recollection,
12 were a part of the compliance component.

13 Q. I meant the diversion team.

14 A. Oh, I'm sorry.

15 Q. Yeah, the diversion.

16 A. Were they part of the
17 diversion? No.

18 Q. Okay.

19 So we were talking about the
20 flowchart earlier with the hard limits for
21 20, and the reporting. In your role within
22 asset protection, as you got these reports,
23 these daily reports, orders over 20, what
24 would your analysis entail at that point?

25 You get the report. It shows

1 orders over 20. What would you then do?

2 A. We would, first thing, look to
3 determine whether or not we have any open
4 investigations at that location at that time.

5 If -- and the -- whether we did
6 or whether we didn't, we were looking at the
7 last time that particular store or that
8 inventory was audited, and when the
9 particular drug in question was audited.

10 And then we would base our
11 decision on whether to send out the checklist
12 to the market directors on whether or not we
13 had an open investigation, or we needed to do
14 additional scoping.

15 But in that process, we'd also
16 run a purchase and dispense report.

17 Q. Now, if there was no active
18 investigation, and you determined that there
19 was no need to conduct a full asset
20 protection investigation, would that be the
21 end of the analysis? Or would you
22 communicate with the market director?

23 A. If we ended its scoping, we
24 would communicate both to compliance and the
25 market director.

1 Q. Okay.

2 A. They -- they needed to complete
3 the review report. We didn't communicate
4 with them that we found no reason for
5 diversion.

6 Q. And was that report an online
7 submission, a web-based form or was it a
8 paper form?

9 A. It was a paper form. Email.

10 Q. Did your -- okay. So it was a
11 paper form that was sent by an email?

12 A. It was -- yes, during that
13 time, it would have been sent by email.

14 Q. So it would have been scanned
15 into a PDF or a TIF document and attached to
16 an email and sent?

17 A. No.

18 Q. Okay. Help me understand the
19 email form, then.

20 A. It was an online -- or not an
21 online form. It was a list of questions in
22 an email that was sent that the market
23 director would respond to the questions in
24 the email and send it back to compliance.

25 Q. Okay. So the questions would

1 be sent by one person, copied, pasted to the
2 reply, and then the answers would be filled
3 in next to the questions that were presented
4 in the original email?

5 A. They would answer those
6 questions from that email.

7 Q. Who would review the answers to
8 those questions?

9 A. That would be compliance.

10 Q. Who had responsibility for
11 reviewing these exception reports? We talked
12 about those earlier. That was -- is that
13 compliance? Was that you? Was it the
14 diversion team? Who was responsible for
15 review of the controlled substance exception
16 reports?

17 MR. VARNADO: Object to form.

18 THE WITNESS: The over 20?

19 Q. (BY MR. ECKLUND) Yeah.

20 A. Yeah. That was a joint.

21 I mean, they would review. And
22 the exceptions would come to us for
23 additional review.

24 Q. Okay. So exception reports
25 would come to your department?

1 A. Those daily ones, yes.

2 Q. Okay.

3 And the responses to the
4 web-based form that you described, would
5 those also come to your department? Or just
6 compliance?

7 MR. VARNADO: Object to form.

8 THE WITNESS: They always went
9 to compliance. And sometimes we were
10 cop -- sometimes the investigator who
11 sent it out was copied. But that was
12 not a requirement.

13 Q. (BY MR. ECKLUND) Okay. So on
14 occasion, you received them, but it was not
15 part of a standard operating procedure --

16 A. Correct.

17 Q. -- that you would be copied or
18 your group would be copied?

19 A. (Witness nods.)

20 Q. It was a standard operating
21 procedure for it to be sent to compliance?

22 A. That is correct.

23 Q. Okay. Was it a standard
24 operating procedure to send it to any other
25 departments aside from compliance?

1 A. None that I'm aware of.

2 Q. Okay.

3 MR. VARNADO: We're getting
4 close to 12:30. Whenever you are
5 ready for a break. No rush.

6 MR. ECKLUND: When you're
7 hungry or want to take a break, just
8 let me know.

9 THE WITNESS: Certainly.
10 Are you ready?

11 MR. VARNADO: Are you ready
12 now?

13 THE WITNESS: Are we starting
14 with a new document? Then I think
15 that would be a perfect time.

16 MR. VARNADO: Sounds good.
17 That's fine.

18 VIDEOGRAPHER: 12:26. We are
19 off the video record.

20 (Recess taken, 12:26 p.m. to
21 1:02 p.m.)

22 VIDEOGRAPHER: 1:02. We are on
23 the video record.

24 Q. (BY MR. ECKLUND) Welcome back,
25 Mr. Beam.

1 A. Thank you.

2 Q. I hope you enjoyed your lunch.

3 So, I just wanted to turn your
4 attention back to this composite exhibit. If
5 you recall, this is what we had talked about
6 earlier. This was what was marked as
7 Exhibit 1 in Miranda Johnson's deposition.

8 And do you recall we went
9 through these time periods. We assembled
10 each of the Bates range documents that were
11 identified in Walmart responses in this
12 document. And I had a couple of questions
13 about this particular document for you.

14 It bears Bates stamp 11106.

15 Do you see this document?

16 There we go. Okay. Here's the question I
17 have for you.

18 "Upon the receipt of the Excel
19 document indicating those stores and items
20 above, the 3.99 percent threshold, the senior
21 AP pharmacy manager will forward the reports
22 to the appropriate drug diversion
23 coordinator."

24 Were you a drug diversion
25 coordinator?

1 A. And what was the time frame on
2 this?

3 Q. This is for 2010-2014.

4 A. At that time I would have been
5 promoted to a manager role.

6 Q. So you were not a drug
7 diversion coordinator. You were manager of
8 the drug diversion coordinators?

9 A. Correct.

10 Q. Who were the drug diversion
11 coordinators within that window of time?

12 A. And that would have been the
13 people on the -- that we covered earlier. So
14 Terry Crabb -- I know for sure.

15 Q. Terry Crabb, Glenn Webster,
16 Latonya, Rob Prince, Richard Ivy, Jarred
17 Crabhouse [sic]?

18 A. Crabtree.

19 Q. Crabtree?

20 A. Yeah.

21 Q. John Oldfather.

22 A. Oldfather.

23 Q. Oldfather? Okay.

24 All of those individuals that
25 you identified earlier?

1 A. John would have been there.

2 Terry would have been there. Richard. And
3 Jarred.

4 Q. What about Kelly Cox? Would
5 she have been a drug diversion coordinator?

6 A. I don't remember the time frame
7 specifically when she came on.

8 Q. Okay. Kathy Stowe?

9 A. I don't think she would have
10 been there at the time.

11 Q. What about Travis?

12 A. Travis would not have been
13 there at that time.

14 Q. And do you have an
15 understanding, since you were the manager of
16 the drug diversion coordinators, of what
17 their responsibilities would have been upon
18 the receipt of the Excel document indicating
19 those stores and items above the 3.99 percent
20 threshold?

21 A. Yes, that -- it would have been
22 what was outlined here. That would have been
23 looking at those things we did in that
24 decision.

25 Q. So what we're going to be

1 turning to now, which is Exhibit 9.

2 (Walmart-Beam Deposition

3 Exhibit 5, September 2012 email chain.

4 Subj: RE: CII utilization review,

5 WMT_MDL_000008089-8090, was marked for

6 identification.)

7 MR. VARNADO: Exhibit 5?

8 Q. (BY MR. ECKLUND) Sorry,

9 Exhibit 5. I apologize.

10 The four-step process

11 delineated at the bottom, that carries on to

12 the next page.

13 MR. VARNADO: Object to form.

14 MS. HOSMER: What are the Bates

15 stamps?

16 MR. ECKLUND: 11106.

17 Q. (BY MR. ECKLUND) Have you gone

18 through it?

19 A. I've gone through it.

20 Q. Okay. And you said before,

21 "Yes, that would have been what was outlined

22 here. That would have been looking at those

23 things we did in that decision." And you

24 were placing your hands on what's been marked

25 as Exhibit 5.

1 And we've now looked at the
2 four-step process described at the bottom
3 that carries on to the top of the next page.
4 That's the process that the drug diversion
5 coordinators would have been considering?

6 MR. VARNADO: Object to form.

7 THE WITNESS: This was the
8 whole process through logistics.
9 Where asset protection's role is lined
10 out is in 3.

11 MR. ECKLUND: In 3? Okay.

12 Q. (BY MR. ECKLUND) What is the
13 purpose of asset protection concerning
14 controlled substances?

15 What is the overarching purpose
16 of asset protection concerning controlled
17 substances?

18 A. Our overall function in that
19 space is to identify where and how to keep
20 the pharmacy physically and operationally
21 secure. We have robberies, burglaries, and
22 we also have both internal as well as
23 forgeries that show up.

24 So there's a lot of dynamics in
25 terms of interface and interaction with the

1 public that asset protection is trying to
2 help the company manage.

3 Q. Okay. So I want to go through
4 these.

5 So, when you talk about
6 physical and operational security, you're
7 talking about security in the vault, locked,
8 stored safely, secure, sort of like we talked
9 about the alarm before? You talked about how
10 there was a physical alarm that would be
11 tested at the pharmacies to make sure it
12 actually locks the doors and the alarm goes
13 off when it should. We're talking about
14 physical and operational security. Correct?
15 At a pharmacy.

16 A. At a pharmacy.

17 Q. Okay.

18 A. And we're talking about the
19 major hardware implementation around that.
20 The doors.

21 Q. As concerns security for the
22 pharmacy. Sort of to prevent robbery -- you
23 talk about robberies and burglaries. And is
24 there a difference in your mind between a
25 robbery and a burglary?

1 A. Yes.

2 Q. What's the difference between a
3 robbery and a burglary?

4 A. A robbery is going to be a use
5 of force or a threat of force. Burglary is
6 going to be a break-in of a facility while
7 the facility is closed.

8 Q. Okay. And then, you also
9 continue that there have been both internal
10 as well as forgeries that show up.

11 What did you mean by "internal
12 as well as forgeries that show up"?

13 A. Well, you're going to have
14 internal theft. And that is a part of
15 running the operational aspect of it.

16 Forgeries, when they're
17 recognized, are typically brought to our
18 attention. And then we start looking at
19 those to determine if there -- if we can
20 detect any pattern in or any other similar
21 behavior.

22 Q. So is the goal of asset
23 protection to protect the physical pharmacy
24 and also the products within the pharmacy
25 from theft or loss?

1 A. We are a part of that process,
2 yes.

3 Q. All right. No, I understand
4 you're a part of the process. I'm trying to
5 understand, with a finer point.

6 Is the primary purpose or goal
7 of asset protection to protect the pharmacies
8 themselves, both operational security and
9 physical security, to prevent robberies,
10 burglaries, theft, to prevent forgeries, or
11 detect forgeries. As I hear you explaining
12 this, it seems the primary purpose is to
13 protect the physical assets, the pharmacies
14 of Walmart, and within the Walmart stores,
15 and also the products within those
16 pharmacies.

17 A. That and investigate, yes.

18 Q. Is there a difference between
19 the purpose and goals of asset protection
20 outside of the pharmacies? And I'm thinking
21 more broadly. Do you recall that Walmart was
22 at -- for a large period, the relevant time
23 period of this case, a distributor unto
24 itself? It would self-distribute? You're
25 familiar with that?

1 A. I am.

2 Q. Did you in asset protection and
3 others within your group also concern
4 themselves with asset protection for Walmart
5 as a distributor?

6 MR. VARNADO: Object to form.

7 THE WITNESS: No.

8 Q. (BY MR. ECKLUND) No. Okay.
9 So you were not involved in the operational
10 security or physical security of Walmart as a
11 distributor?

12 A. Not as a distributor.

13 Q. And you were not involved in
14 the investigations of Walmart as a
15 distributor?

16 MR. VARNADO: Object to form.

17 THE WITNESS: Not as a
18 distributor.

19 Q. (BY MR. ECKLUND) So if asset
20 protection and your group were not involved
21 in the distribution side of Walmart, who was?

22 Who, within Walmart, would have
23 been responsible for ensuring that there was
24 no theft or loss or diversion within the
25 wholesale side?

1 A. There was an asset protection
2 in logistics. That was separate from our
3 group.

4 Q. Who was the person within
5 logistics that had an asset protection
6 responsibility?

7 A. That would have been Jim Greer.

8 Q. Mr. Greer is in a different
9 silo, if you will, within Walmart. There's
10 compliance, there's logistics, there's asset
11 protection. Mr. Greer has not been in the
12 asset protection silo; correct?

13 A. There is an asset protection
14 division inside of logistics, and they have
15 multiple functions as it relates to logistics
16 in total.

17 Q. Okay.

18 A. There is one, Jim Greer, that
19 was responsible for pharmacy or health and
20 wellness.

21 Q. Would he have reported to the
22 same manager that you did?

23 A. No.

24 Q. Who would he have reported to?

25 A. He would have reported to -- he

1 would have reported to a divisional director
2 within asset protection within logistics.
3 Off the top of my head, I can't recall who
4 that would have been.

5 Q. And the divisional director
6 that you reported to within asset protection
7 was?

8 A. Ron Lance.

9 Q. And would Mr. Lance also be
10 within logistics?

11 A. No.

12 Q. And which group is he in?

13 A. He's in AP operations.

14 Q. So he's in AP operations. And
15 Mr. Greer, his portion of asset protection
16 was in logistics?

17 A. Correct.

18 Q. So those are different
19 departments?

20 A. Those are separate entities of
21 a larger overall department.

22 Q. And how would you collaborate
23 or communicate with the other asset
24 protection department?

25 A. With Mr. Greer?

1 Q. With the department just
2 broadly.

3 A. Oh.

4 We are -- we're free to make
5 those phone calls and collaborate where we
6 feel business necessity requires.

7 Q. Are those departments housed in
8 the same building?

9 A. Logistics and operations?

10 Q. Yeah. The two asset protection
11 groups. The one for logistics and the other
12 for operations, are they housed within the
13 same building?

14 A. No.

15 Q. Did they share servers?

16 A. No.

17 Q. Network drives?

18 A. No.

19 Q. There's asset protection
20 logistics and asset protections operations.
21 So the operations asset protection, which is
22 your department, your group, those are really
23 concerned, as I'm understanding your
24 testimony, and correct me if I'm
25 misunderstanding it, you're concerned with

1 the operations of the pharmacies and the
2 stores ensuring that the stores are secure,
3 that they are not going to be prone to theft,
4 loss, robberies, burglaries, that you're
5 taking steps to protect the stores from a
6 loss of product or from a theft or a crime?

7 A. Mm-hmm. (Witness nods.)

8 Q. You said "mm-hmm," but you need
9 to say "yes."

10 A. Oh, I'm sorry. Yes.

11 Q. And do you have an
12 understanding of what logistics asset
13 protection would have been concerned with?
14 It's separate from what you're looking at.
15 There's not overlap for the sake of overlap.
16 They have a different focus.

17 A. Right.

18 Q. Okay.

19 MR. VARNADO: Object to form.

20 Q. (BY MR. ECKLUND) Do you have
21 an understanding of what the focus of
22 logistics asset protection is?

23 A. I don't have a broad
24 understanding of what their total focus was,
25 no.

1 Q. Aside from a broad one, do you
2 have just a general?

3 A. They were focused --
4 I don't know what their primary
5 focus was.

6 I just know, in my
7 communication with Jim Greer, we talked about
8 health and wellness matters and health and
9 wellness products.

10 Q. Okay. So what I'm wondering
11 is, sitting here today, you're not aware or
12 certain if logistics asset protection would
13 have been concerned with theft or loss prior
14 to delivery at the pharmacy.

15 A. I don't know that answer. I
16 know there's -- they have processes and
17 procedures like the operations I do.

18 Q. Okay. Do you review reports or
19 investigations conducted by the logistics
20 asset protection group?

21 A. No.

22 Q. Do you know whether they
23 prepare reports?

24 A. I don't know what kind of
25 reports they would have prepared.

1 Q. Is the logistics asset
2 protection group part of the diversion team?

3 A. No.

4 Q. Do you know whether they're
5 involved in any of your suspicious order
6 monitoring programs within Walmart?

7 MR. VARNADO: Object to form.

8 Q. (BY MR. ECKLUND) Yeah,
9 logistics asset protection, whether they're
10 involved in SOMs.

11 A. In terms of -- in terms of the
12 exception reports that we were getting early,
13 the over 30, over 20, those were the persons
14 we were receiving those reports from.

15 Q. Okay. So the reports that you
16 were getting, the cut -- the cut orders,
17 those are coming from the logistics asset
18 protection and they're being provided to
19 operations asset protection?

20 A. To our team in particular.

21 Q. To your team.

22 A. Yeah.

23 Q. Okay.

24 A. Through compliance and other
25 folks.

1 Q. Okay. Now, within one of the
2 prior exhibits, and we don't have to go back
3 to it. You can if you want. We were talking
4 about it earlier. It's from James Greer. He
5 just mentions -- in the logistics asset
6 protection group, he sends an email to you
7 and others, and he mentions, "The DEA has
8 indicated that our electronic communication
9 notifications are our proof of due
10 diligence."

11 MR. VARNADO: What page number?

12 MR. ECKLUND: It's --

13 MR. VARNADO: Are you reading
14 from Exhibit 5?

15 MR. ECKLUND: No, no. It's one
16 of the prior exhibits. You can go
17 back.

18 MR. CECCHI: Could you read the
19 Bates ranges of Exhibit 5 that's
20 been -- that we're talking about? I'm
21 just confused what exhibit we're
22 looking at.

23 Read the Bates ranges into the
24 record. I just want to make sure.

25 MR. ECKLUND: 8089.

1 MR. CECCHI: 8089. It's
2 Deposition Exhibit 5.

3 MR. ECKLUND: Correct.

4 And what I was curious about
5 was one of the prior exhibits, which
6 is Bates stamp 57259.

7 It's the one with the big
8 redacted privilege block.

9 Okay. All right.

10 Now --

11 MR. VARNADO: Exhibit 2, for
12 the record.

13 MR. ECKLUND: Exhibit 2, for
14 the record. Thank you.

15 Q. (BY MR. ECKLUND) "The DEA has
16 indicated that our electronic communication
17 notifications are our proof of due
18 diligence."

19 The electronic communication
20 notifications that Mr. Greer is talking
21 about, those are electronic communications
22 coming from his group, logistics asset
23 protection, not your group, operations asset
24 protection; correct?

25 A. I can't answer that. I don't

1 know what his intent was there.

2 We did not have any discussion
3 on that.

4 Q. Do you provide any electronic
5 communications or notifications to the DEA?

6 A. I do not.

7 Q. And are you involved in proving
8 up any due diligence concerning controlled
9 substances and suspicious orders?

10 MR. VARNADO: Object to form.

11 THE WITNESS: No.

12 Q. (BY MR. ECKLUND) You're not
13 involved in due diligence for suspicious
14 orders?

15 MR. VARNADO: Object to form.

16 THE WITNESS: Our group was to
17 do the outline the processes -- or do
18 the processes as outlined earlier, in
19 terms of doing the P&Ds, scoping and
20 doing the work necessary.

21 Q. (BY MR. ECKLUND) The workflow
22 we went through before?

23 A. Correct.

24 Q. And I'm just trying to make
25 sure we have a clear picture of where your

1 role and responsibility starts and ends, and
2 where another team's would be picked up.

3 So when we're talking about
4 your role within operations asset protection,
5 you're principally if not exclusively
6 concerned with theft or loss of product
7 within the pharmacies owned and operated by
8 Walmart; correct?

9 A. That and in transit, yes.

10 Q. That and in transit. And the
11 in transit would be once a box or -- is it
12 boxes or pallets? How do you guys load the
13 trucks?

14 MR. VARNADO: Object to form.

15 THE WITNESS: Those are done by
16 individual store shipment.

17 MR. ECKLUND: But I'm just --

18 THE WITNESS: In a box.

19 MR. ECKLUND: I want to have a
20 proper question for you so I just want
21 to make sure I understand.

22 Q. (BY MR. ECKLUND) So DC 6045 is
23 going to deliver, let's just say for sake of
24 example, Oro Valley, Arizona, okay? They're
25 going to load product onto a truck and it's

1 going to get shipped. Right? Because you're
2 not shipping by planes, are you?

3 A. We ship through third party.

4 Q. What third party do you use to
5 ship?

6 A. That, I -- there were multiple,
7 depending on where the shipment was headed
8 to.

9 But then that part, Jim Greer
10 would have been the person who had a list of
11 who those third parties were.

12 Q. Okay. Well, let's tick off a
13 few names and see if you can clear it up for
14 us.

15 FedEx?

16 A. Yes.

17 Q. UPS?

18 A. Yes.

19 Q. The United States Postal
20 Service?

21 A. No.

22 Q. DHL?

23 A. No.

24 Q. J.B. Hunt?

25 A. Not that I recall.

1 Q. Any other shipping entities
2 that you can recall sitting here today?

3 A. Only subcontractors that were
4 contracted through the logistics department.

5 Q. And what names, do you
6 remember?

7 A. I don't, but they did all of
8 the contracting on that.

9 Q. Okay. So you've identified the
10 ones that you recall. You're confident or
11 aware that there were subcontractors that
12 were contracted directly through the
13 logistics department; correct?

14 MR. VARNADO: Object to form.

15 THE WITNESS: Yes.

16 Q. (BY MR. ECKLUND) Does Walmart
17 have its own trucks to ship controlled
18 substances?

19 A. We have our own trucks, but we
20 do not ship controlled drugs on those trucks.

21 Q. Have you ever delivered
22 controlled drugs on those trucks?

23 MR. VARNADO: Object to form.

24 THE WITNESS: I'm not aware of
25 that occurring.

1 Q. (BY MR. ECKLUND) It wasn't
2 something that would have been part of the
3 standard operating procedures, whereby they
4 would take the controlled substances that
5 they've received from the various
6 manufacturers or wholesalers, or to the
7 extent that Walmart was wholesaling to
8 itself, taking that product and then putting
9 it onto a truck to deliver it to one of the
10 various distribution centers for supply to a
11 pharmacy? It's not something that would have
12 been expected?

13 A. I'm not aware of that occurring
14 in our environment.

15 Q. Okay. Are there records that
16 reflect which trucks were used to ship which
17 pills?

18 A. I'm not familiar with that.

19 Q. Okay.

20 A. I couldn't answer it.

21 Q. Okay. Mr. Beam, do you
22 remember a gentleman named Dan Jefferies?

23 It's our understanding he
24 worked at McKesson.

25 A. The name doesn't ring a bell.

1 Q. Does the operations asset
2 protection group use base code reports in its
3 performance of its job?

4 MR. VARNADO: Object to form.

5 THE WITNESS: We had received
6 and reviewed those base codes. They
7 were -- they were less useful than
8 looking at NDCs.

9 Q. (BY MR. ECKLUND) Okay. Now,
10 the document I'm looking at, it suggests that
11 base code reports were being used for
12 phentermine, hydrocodone, oxycodone,
13 methadone, and alprazolam.

14 MR. ECKLUND: And this is
15 McKesson MDL 00514053. And again, it
16 was sent to Mr. Beam directly.

17 MR. VARNADO: Have you
18 provided --

19 MR. ECKLUND: I can.

20 MR. VARNADO: Have you shown us
21 that? Thank you.

22 (Walmart-Beam Deposition
23 Exhibit 6, 5/10/13 email from Shirley
24 Rector. Subj: CSMP Questionnaire.
25 MCKMDL00514052-514057, was marked for

1 identification.)

2 MR. ECKLUND: So, for the
3 benefit of everyone listening, this
4 letter was associated with an email
5 that bears Bates stamp McKesson MDL
6 00514052. It was sent by
7 Shirley Rector, who appears to have
8 been an employee of McKesson within
9 North America.

10 It was sent to Mr. Beam. It
11 was copied to Mr. Chapman and a
12 gentleman named Dave Gustin, who is
13 also a McKesson employee.

14 MR. VARNADO: There's a Bates
15 page missing in here. I don't know if
16 that ...

17 MR. ECKLUND: This is --
18 according to our tech group, these are
19 the parents and children. This is how
20 it was produced to us. If there was
21 something missing, that's something
22 that you'd have to put up with
23 McKesson's counsel. I don't want to
24 speculate as to why that is.

25 MR. VARNADO: Just note that

1 it's a compendium exhibit, and it
2 looks like Bates No. 514053 -- I'm
3 sorry, 054 is not included, but ...

4 MR. ECKLUND: That's fine.

5 Certainly not our intention to
6 omit a page.

7 [Document review.]

8 Q. (BY MR. ECKLUND) And,
9 Mr. Beam, as you review this letter, does
10 your review of the letter refresh your
11 recollection about your receipt of it back in
12 May of 2013?

13 A. I recall it vaguely. But as I
14 sit here now, I don't recall what led up to
15 it or after -- actions after this.

16 Q. And in May of 2013, was Walmart
17 cutting orders for phentermine? Orders over
18 20 bottles?

19 MR. VARNADO: Object to form.

20 THE WITNESS: I don't know that
21 answer.

22 Q. (BY MR. ECKLUND) It's in -- so
23 we have these interrogatory responses. We
24 can go back to those.

25 So May 1st, 2013, that bullet

1 we went over earlier, "From approximately
2 July 2012 until approximately 2015, employees
3 in Walmart's DC 6045 implemented a hard limit
4 of 20 bottles for shipments of oxycodone
5 30 milligrams."

6 But it didn't mention
7 phentermine, it didn't mention hydrocodone,
8 it didn't mention methadone, and it didn't
9 mention alprazolam.

10 So is it -- do you know
11 whether, in May of 2013, there was a hard
12 limit of 20 bottles for shipments of
13 Phentermine, hydrocodone, methadone or
14 alprazolam?

15 A. I don't know.

16 Q. Are there records within
17 Walmart that would reflect whether there were
18 in fact hard limits --

19 MR. VARNADO: Object to form.

20 Q. (BY MR. ECKLUND) -- of those
21 drugs?

22 A. I don't know that either.

23 Q. In response to receipt of this
24 letter, did you do anything differently as
25 concerns asset protection for phentermine,

1 hydrocodone, methadone or alprazolam in your
2 role within asset protection? I'm just
3 talking about that.

4 So were there additional steps
5 taken to prevent theft or loss, burglaries,
6 robberies, to ensure that those four products
7 were also stored securely within the
8 pharmacies?

9 MR. VARNADO: Object to form.

10 THE WITNESS: There were no
11 additional steps beyond what we were
12 already doing.

13 Q. (BY MR. ECKLUND) It continues,
14 "Our regulatory team has reviewed the
15 purchase patterns for these locations,
16 identified several locations that require
17 additional supporting information, and have
18 provided a questionnaire for you to answer
19 out based on their findings."

20 Did you provide a response to
21 McKesson? Were you the one that filled out
22 the questionnaire? Or answers? Do you see
23 that? It says, "and have provided a
24 questionnaire for you to answer out based on
25 their findings?"

1 Do you recall filling out a
2 questionnaire?

3 A. I do not recall filling out or
4 sending back anything on this questionnaire.

5 Q. Okay. If you had completed the
6 questionnaire, would that have been something
7 that would have been maintained within your
8 records or files?

9 MR. VARNADO: Object to form.

10 THE WITNESS: If it had been,
11 it would have been something that
12 would have been -- I would have
13 definitely kept, but I've never seen
14 this form.

15 I mean, I don't recall seeing
16 this form.

17 Q. (BY MR. ECKLUND) Well, you
18 don't -- you don't -- okay. So let's just be
19 clear for the record.

20 You testified that you've never
21 seen this form. What you meant is you don't
22 recall seeing that form?

23 A. Correct.

24 Q. You have no reason to dispute
25 that you received this letter from McKesson

1 or that you did receive the attachments to
2 the email.

3 A. I don't remember.

4 Q. The email was sent by Shirley
5 Rector, and it says, "Please find the
6 following documents attached for your review
7 and response." And it's got this CSMP
8 letter, currently -- current pharmacy
9 listing, three-month purchase history and
10 purchasing pattern for base codes and the
11 questionnaire. Do you see that?

12 A. I do.

13 Q. And you have no reason to
14 dispute that you received the questionnaire
15 from Shirley Rector on May 10th, 2013?

16 A. I have no reason to dispute --

17 Q. You just have no recollection?

18 A. I have no recollection.

19 Q. In your role, if you did not
20 feel it was appropriate for you to complete
21 this questionnaire, would you have provided
22 this questionnaire to someone else within
23 Walmart for completion or would you have just
24 left it alone? Ignored it?

25 MR. VARNADO: Object to form.

1 THE WITNESS: This would have
2 been something that, if -- if it had
3 been completed, I don't know who would
4 have completed it. I'm sure there
5 would have been wider coordination
6 than just one person.

7 Q. (BY MR. ECKLUND) Do you --

8 A. I did not complete it, that I
9 recall.

10 Q. Do you believe George Chapman
11 may have completed it? He's copied on the
12 email?

13 A. I can't say.

14 Q. Sitting here today, you don't
15 know whether Mr. Chapman completed it, but
16 you're fairly confident that you did not?

17 A. Correct. I do not know if
18 Mr. Chapman completed it. I do not recall
19 completing nor sending this form.

20 Q. Now, do you see at the top of
21 this letter, the author from McKesson wrote,
22 "As we unfortunately are all aware, the abuse
23 of prescription drugs, particularly
24 controlled substances, continues to be a
25 serious problem among millions of Americans.

1 "Consequently, the federal
2 government committed to combat this abuse by
3 implementing monitoring programs and taking
4 enforcement action to keep controlled
5 substances out of the hands of those who
6 intend to misuse them. Since then, the DEA's
7 expectations have been that McKesson and all
8 wholesale distributors continue to increase
9 their role in monitoring the order and
10 distribution of controlled substances."

11 Do you see that?

12 A. I do.

13 Q. Okay. At this time, in May of
14 2013, was Walmart a wholesale distributor to
15 itself?

16 A. Walmart self-distributed, yes.

17 Q. And at this point in time,
18 Walmart was also receiving some amount of
19 controlled substances from McKesson.

20 A. Some degree, yes.

21 Q. Okay. Are you familiar with
22 any efforts taken within Walmart to further
23 combat abuse by implementing monitoring
24 programs?

25 MR. VARNADO: Object to form.

1 THE WITNESS: In what fashion?

2 In distribution? In ...

3 Q. (BY MR. ECKLUND) In your role
4 within asset protection. So in May of 2013,
5 you get this letter from one of your
6 distributors, McKesson. And advising you, in
7 their view, that there's an unfortunate abuse
8 of prescription drugs, particularly
9 controlled substances, that it's a serious
10 problem among millions of Americans. That
11 the federal government has committed to
12 combat the issue by implementing monitoring
13 programs, taking enforcement actions, to keep
14 controlled substances out of the hands of
15 those who intend to misuse them.

16 And since that time, the DEA's
17 expectations have been that McKesson, all
18 wholesale distributors, including Walmart,
19 would continue to increase their role in
20 monitoring the order and distribution of
21 controlled substances.

22 What I'm asking is, do you
23 recall any increases in the monitoring or
24 distribution of controlled substances that
25 you took within Walmart? Any steps that you

1 took to increase your oversight or your
2 efforts?

3 MR. VARNADO: Object to form.

4 THE WITNESS: The processes and
5 steps we took are those that are
6 outlined in a broader scope within the
7 over 30 report, over 20 report,
8 rather, and the follow-up processes
9 from those.

10 Q. (BY MR. ECKLUND) Okay. But
11 those processes would have been the same in
12 April of 2013, and it sounds like June of
13 2013.

14 A. Mm-hmm. (Witness nods.)

15 Q. There were no differences since
16 this letter was received?

17 A. I'm sure there were
18 differences, because that program continued
19 to evolve.

20 Q. How did it evolve?

21 A. There were processes and
22 discussions that I was not a part of, that we
23 had discussed earlier. That continued to
24 evolve, the review and look at those
25 controlled drug orders as time progressed.

1 Q. And you're talking about the
2 bullet points that we've just went through
3 earlier today in the interrogatory response?

4 A. Correct.

5 Q. So the evolution delineated by
6 Walmart in its interrogatory response? Okay.

7 MR. ECKLUND: I'm going to hand
8 you what's going to be the next
9 exhibit. For the benefit of those
10 listening, it's Walmart 42794.

11 (Walmart-Beam Deposition
12 Exhibit 7, July 2013 email chain.
13 Subj: June 405-1 report.
14 WMT_MDL_000042794-42795 with
15 attachment, was marked for
16 identification.)

17 Q. (BY MR. ECKLUND) Mr. Beam,
18 what I've handed you is an email sent by
19 Donna Auldridge to you, Terry Crabb,
20 George Chapman, and Kristy Spruell, sent on
21 July 8, 2013. And it's forwarding an email
22 sent from Jeremy Hanna to Donna Auldridge.

23 Do you see that?

24 A. I do.

25 Q. Do you know who what Jeremy

1 Hanna is?

2 A. I do not.

3 Q. In the title below it says,
4 "Mr. Hanna was an asset protection area
5 manager."

6 At that time, would Mr. Hanna
7 have reported to you as an asset protection
8 area manager?

9 A. No.

10 Q. To whom would Mr. Hanna have
11 reported?

12 A. From this email address, he
13 would have reported to Donna Auldridge.

14 Q. Okay. And within the body of
15 the email above from Ms. Auldridge, she
16 wrote, "Store 4206, Oro Valley," which I
17 understand from some internet searches is
18 more than likely the Oro Valley Walmart
19 located in Arizona, that it had a significant
20 increase in the oxy 15s.

21 Also, the distribution center
22 has had to cut their oxy 30 orders a few
23 times in the last month or so. And this
24 percent is comparing all prescription sales
25 from 6032 and 6045 against this one item.

1 Year-to-date orders from 6045 were about
2 54,000, with 39,000 of those oxy items.
3 Okay? So 39,000 of those being oxy items.

4 Do you see that?

5 A. I do.

6 Q. So let's just go through this.

7 Now, we talked earlier about
8 the flowchart. Oxy 15, that's not going to
9 trigger bottle limit cuts to 20, because it's
10 not 30 milligrams; correct?

11 A. On the over 20? That would
12 have been -- that would have kicked a review.

13 Q. Potentially a review, but it
14 would not have been a bottle cut.

15 A. That would be correct.

16 Q. Okay. But not in every
17 instance a review.

18 MR. VARNADO: Object to form.

19 Q. (BY MR. ECKLUND) Potentially a
20 review.

21 MR. VARNADO: Object to the
22 form.

23 THE WITNESS: In terms of
24 review, it would have been looked at.

25 Q. (BY MR. ECKLUND) Looked at,

1 but not necessarily investigated.

2 MR. VARNADO: Object to form.

3 THE WITNESS: It would have
4 been looked at to determine if an
5 investigation was necessary. Or
6 indicators if an investigation were
7 necessary.

8 Q. (BY MR. ECKLUND) How long
9 would it take to conduct that limited review
10 that you've just described, the look -- to
11 look at it to determine whether an
12 investigation is necessary? How long would
13 it take?

14 A. On average, about a day and a
15 half.

16 Q. For every oxy 15 order?

17 A. For a complete review, we could
18 have pulled a P&D in about an hour. Two
19 hours.

20 Q. I'm just trying to understand
21 the degrees of time invested.

22 So you said for a complete
23 review, you could have pulled a P&D in about
24 an hour. What would a P&D encompass for an
25 oxy 15 order?

1 A. It's a purchase and dispense.

2 Q. So what would you be looking
3 at?

4 A. Are the purchases -- are the
5 dispenses consistent with the purchases.

6 Q. Is that based on an algorithm?
7 A program? Or human review?

8 A. It's based on data pull and
9 human review.

10 Q. Okay. So the data is pulled
11 into a visual program, and a person looks at
12 what gets flagged and then they can determine
13 whether they think more investigation or a
14 more thorough review is required?

15 A. It was not pulled into a visual
16 program. It was pulled into a spreadsheet
17 for a side-by-side comparison.

18 Q. Okay. So -- and if you look,
19 there's a placeholder directly behind the
20 email. It says "produced in native format."
21 And we pulled the native format and we just
22 gave you a snapshot that shows you rows and
23 columns. But you can also see there are tabs
24 below for multiple months.

25 Do you see that?

1 A. I do.

2 Q. Okay. So is this what somebody
3 would have looked at in determining whether a
4 more thorough day-and-a-half review would
5 have been necessary?

6 A. This would have been -- this
7 would have started or initiated a process to
8 look.

9 Q. Okay. So walk me through the
10 process, then.

11 So 4264, Store 4264. Do you
12 see that? And we know that that's the
13 Oro Valley store, and that's the same store
14 referenced in the email.

15 And it's got the item number,
16 which is a code specific to that version of
17 oxycodone 15 milligrams.

18 Do you see that?

19 A. I do not know that that number
20 is specific to oxycodone 15 milligrams. I
21 don't work in logistics, so I don't --

22 Q. Okay.

23 A. -- design those item numbers.

24 Q. Okay. But we can agree that if
25 you look at the numbers, and then you look at

1 the item descriptions, they are consistent in
2 how they refer to specific products. For
3 example, if you look at each of the item
4 numbers 3880887, do you see those? They're
5 in the middle.

6 A. I do.

7 Q. Okay. Oxycodone and
8 acetaminophen, 5/325?

9 Do you see that? The same
10 dosage?

11 A. I do.

12 Q. And then, if you look at the
13 bottom, 3880901 that's oxycodone/
14 acetaminophen 10/325. So it's a different
15 drug.

16 I had a question about the last
17 one. We were talking earlier about how
18 bottles would get caught. Right? The 20,
19 over 20. 3880910. Oxycodone, acetaminophen,
20 5 and 325.

21 So that appears to be the same
22 combination, and the same strengths, but it's
23 a different item number. Do you see that?

24 So the first three are 3880887,
25 and the last one is 3880910.

1 Do you see that?

2 A. I do.

3 Q. All right. Is it your
4 understanding that if you had orders of 20,
5 or 19 bottles of oxycodone for the first
6 three variants, right? The 3880887. And
7 then you had additionals under 3880910, that
8 they would be totaled to determine the bottle
9 limit ordered or are they considered
10 separately?

11 MR. VARNADO: Object to form.

12 THE WITNESS: I'm not an expert
13 on the logistics system, but you would
14 have to -- you would have to get the
15 particulars that you are seeking there
16 from someone who is.

17 Q. (BY MR. ECKLUND) Okay. And
18 you're also not certain whether the
19 percentages would be totaled as well.

20 For example, if the same store
21 ordered the 3880910 -- and let's just use the
22 4.18 percent. Do you see that?

23 A. Yes, sir.

24 Q. And then you see above, let's
25 use the eighth row, 3880887, oxycodone,

1 acetaminophen, right? And it's 5.35 percent,
2 those two percentages, you don't know whether
3 those would be totaled as well. So if the
4 same store ordered both using different item
5 numbers --

6 A. Mm-hmm.

7 Q. -- right? So the pharmacy has
8 two orders placed. And they use different
9 item numbers. So whatever reason the
10 pharmacy decided to do that, you don't know
11 whether those percentages would be totaled as
12 well.

13 MR. VARNADO: Object to form.

14 THE WITNESS: Yeah, I don't
15 know the details around the technical
16 aspect behind this form.

17 Q. (BY MR. ECKLUND) So do you
18 have an understanding of what the analysts
19 would have been looking at in determining
20 whether or not to conduct a more thorough
21 day-and-a-half investigation or review of the
22 order?

23 So they get these four
24 columns -- five columns, I apologize --
25 report number, store number, item number,

1 item description, and percentage.

2 So the report number, that's
3 the same throughout. So that's the monthly
4 controlled drug exception report?

5 A. Correct.

6 Q. So that's everything. And one
7 individual or multiple individuals are going
8 to look at that report for the month of June?

9 A. There's going to be multiple
10 individuals. I know they come to our team.

11 Q. Okay. And within your team, do
12 you have an understanding of how they would
13 determine how thorough a review that's
14 warranted based upon this spreadsheet?

15 A. This would have been only one
16 factor in determining that review. Each of
17 the investigators would have the experience
18 in their area, and also would have known
19 where certain areas would warrant further
20 review in what areas they had of a major
21 concern.

22 There would be a lot of
23 factors.

24 Q. Can you identify those other
25 factors?

1 A. They're varied, and a lot of
2 those factors would determine the -- they
3 would be based on results of the initial pass
4 and what those reviews disclosed.

5 Q. Do you know whether one of the
6 factors was looking back to February, March,
7 April, and May reports, to see what was being
8 ordered at those stores in the past?

9 A. I don't know that for sure, but
10 I am certain that would have been a part of
11 the review.

12 Q. Well, it can't be both. It's
13 you don't know that for sure or you're
14 certain. Or are you certain that it was part
15 of the review or you are not sure if it was
16 part of the review?

17 A. I'm not sure.

18 Q. Okay. And you understand why I
19 clarify that?

20 A. I agree.

21 Q. Okay. When the analyst made a
22 decision not to conduct a more thorough
23 review, is there documentation about that
24 decision?

25 MR. VARNADO: Object to form.

1 THE WITNESS: The analyst would
2 not have made that decision. It would
3 have been the investigators.

4 Q. (BY MR. ECKLUND) I'm sorry.
5 Apologies. When the investigator made the
6 decision not to make a more thorough review,
7 would there be documentation created by the
8 investigator?

9 A. Not in every case.

10 Q. On what occasions would they
11 document the decision not to conduct a more
12 thorough review?

13 A. Can you restate that for me,
14 please?

15 Q. Sure. So I asked you when the
16 analyst made a decision not to conduct a more
17 thorough review, was there documentation
18 about that decision. So I looked at this
19 report, and I determined, based on my
20 investigation, that we do not need to take
21 any additional action. There is no further
22 reviews necessary. This doesn't rise to the
23 level of a day-and-a-half review and it
24 doesn't rise to the level of a formal
25 investigation.

1 What I'm trying to understand
2 is -- and you said that there would be, but
3 not always. There would be documentation,
4 just not always.

5 And what I'm trying to
6 understand is, when would they document that
7 decision to conduct a more thorough review?
8 Were there circumstances or standard
9 operating procedures that the investigators
10 would follow if they made a determination,
11 say, for example, "I'm not going to conduct
12 additional investigation or review,
13 notwithstanding the fact that there was an
14 8 percent -- that the oxycodone 15 milligrams
15 represented 8. -- 8 percent or higher of
16 total sales." Right?

17 Is there some standard
18 operating procedure or guidelines that the
19 investigators would follow that would help
20 them decide, this is one where I have to do
21 the documentation, or this time I don't have
22 to?

23 MR. VARNADO: Object to form.

24 THE WITNESS: Short answer, no.

25 Q. (BY MR. ECKLUND) So it was a

1 discretion to the investigator?

2 A. Discretion is to the
3 investigator.

4 Q. And you mentioned trends were
5 one of the concerns that they would consider.

6 Do you recall that?

7 A. Mm-hmm. (Witness nods.)

8 MR. VARNADO: Object to form.

9 Q. (BY MR. ECKLUND) What was the
10 importance of analyzing trends in connection
11 with these reports?

12 A. Trends on that would have been
13 looking for other indicators that would be
14 indicative of something that we need to look
15 at and research further. Were there
16 substantial in-transit losses? Have there
17 been burglaries or robberies in this store or
18 within this immediate area? Have there been
19 previous internal investigations relative to
20 the theft of controlled drugs?

21 So there's a lot of different
22 variables that would go into that.

23 Q. Okay. So, again, the focus
24 would be on in-transit losses, theft,
25 burglaries, robberies, instances that would

1 have impacted operational security or
2 physical security of the pills?

3 A. Right. And from that
4 perspective.

5 Q. Were the trends that the
6 investigators were looking at regional,
7 localized, or national trends?

8 MR. VARNADO: Object to form.

9 THE WITNESS: In --

10 Q. (BY MR. ECKLUND) Let me ask it
11 a different way.

12 A. Please.

13 Q. If the investigator is looking
14 for, or evaluating and reviewing the
15 Oro Valley purchases, are they looking at
16 sales only near the Oro Valley? Are they
17 considering trends within the state of
18 Arizona? Are they considering trends within
19 the southwestern United States? Are they
20 considering trends within the entire Pacific
21 Time zone? Are they considering trends
22 within the western half of the United States?
23 Or are they considering trends within the
24 entire country?

25 That's what I'm trying to

1 understand. How are they looking at? What
2 trends are they looking at?

3 A. I think that -- strike that.
4 They would start at the market
5 level, meaning in the immediate vicinity.
6 But that is done in the backdrop of the
7 larger picture, which would have been
8 national trends as well.

9 They're familiar with what,
10 where, and what those trends are.

11 Q. So they're concerned with the
12 local market and the national trends?

13 A. (Witness nods.)

14 Q. The regional only to the extent
15 that it's part of the national?

16 A. Correct.

17 Q. Okay.

18 Did anyone have access to their
19 analysis? The analysis of these
20 investigations? The documentation that they
21 did provide?

22 MR. VARNADO: Object to form.

23 THE WITNESS: That the
24 investigators provided?

25 Q. (BY MR. ECKLUND) Yeah.

1 A. It was available or accessible
2 among our group. And this information was
3 also shared with compliance.

4 Q. Was it also shared with
5 logistics more broadly?

6 A. That would have been a
7 conversation that would have occurred. We
8 would not have been a part of that. They
9 would have gotten that from another party.

10 Q. Possibly compliance?

11 A. Possibly.

12 Q. Okay. So asset protection
13 would have potentially shared the analysis
14 with the compliance group. Are there any
15 other groups that asset protection might have
16 shared the analysis with? Beyond compliance?

17 A. The market director.

18 Q. The market director.
19 Anyone else?

20 A. None that I can recall.

21 Q. And the market director
22 oversees the distribution centers within that
23 market?

24 MR. VARNADO: Object to form.

25 Q. (BY MR. ECKLUND) What is the

1 market director doing with that information?

2 A. The market directors are
3 responsible for the stores. Pharmacy is
4 within the stores.

5 Q. Right. And I'm just trying to
6 understand. So the market director -- for
7 the Oro Valley example, the market director
8 would be the market director responsible for
9 stores located in the Oro Valley and
10 potentially other pharmacies in the state of
11 Arizona?

12 A. Correct.

13 Q. But not -- I'll pick any other
14 state. It doesn't really matter. Arkansas,
15 Missouri. They're not going to be the same
16 people?

17 A. No, the market director in
18 Missouri and the market director in Arizona
19 would be different people.

20 Q. Right. How many market
21 directors are there?

22 A. Currently?

23 Q. Yes.

24 A. I do not know of an exact
25 number.

1 Q. More than 100?

2 A. I don't know.

3 Q. Under 50?

4 A. I can't give you an exact
5 number.

6 Q. I'm not looking for an exact
7 number, but just a range. I'm trying to
8 understand, is this a group of a dozen
9 people? Less than five people? More than
10 100 people?

11 A. I would have to look at that
12 and give you an answer back.

13 Q. So sitting here today, you
14 don't know whether there's less than five
15 market directors or more than 100?

16 A. There's more than five.

17 Q. Okay. Are you confident
18 there's more than 20?

19 A. I don't know an exact number,
20 but yeah.

21 Q. I'm not asking for an exact
22 number. I'm just asking are there more than
23 20 market directors?

24 A. To my knowledge, there is more
25 than 20.

1 Q. Do you think there are more
2 than 40?

3 A. To my knowledge, there's more
4 than 40.

5 Q. More than 50?

6 A. Yes.

7 Q. More than 60?

8 A. Yes.

9 Q. More than 100?

10 A. That, I -- I don't know.

11 Q. So somewhere in the 60 to 100
12 range?

13 A. (Witness nods.)

14 Q. You'd be comfortable with?

15 A. I'd be comfortable at the
16 moment.

17 Q. Okay. And at the conclusion of
18 your deposition, you'll have opportunities to
19 correct any of the testimony, so, you know,
20 if you feel like you're not comfortable
21 afterwards, you can change that around a
22 little bit. But for purposes today we're
23 going to assume that there's more than 60 and
24 less than 100 market directors.

25 So these 60 to 100 market

1 directors who are responsible for individual
2 pharmacies, did they share information about
3 these analyses with other market directors?
4 Was it part of their process?

5 A. I don't know.

6 Q. Does it seem like something
7 that would have made sense for them to do?

8 MR. VARNADO: Object to form.

9 THE WITNESS: That, I don't
10 know.

11 Q. (BY MR. ECKLUND) I mean, for
12 example, if you had a market director
13 responsible for the state of Texas and a
14 market director responsible for the state of
15 Arkansas and they share a border, at least a
16 small one, would it have made sense for the
17 two to share information, insights and
18 analyses?

19 MR. VARNADO: Object to form.

20 THE WITNESS: No, we do not
21 provide direction to field operations.
22 That's outside of our scope.

23 Q. (BY MR. ECKLUND) No, I'm not
24 asking whether you provided direction to
25 them. I'm asking you whether it would make

1 sense for them to share that information. As
2 you understand the investigations and what
3 would be reflected in that, is that the type
4 of information that would have been helpful
5 or useful to a market director in another
6 market?

7 A. I'm really not in the position
8 to comment on that.

9 Q. Have you reviewed any of the
10 investigations?

11 MR. VARNADO: Object to form.

12 THE WITNESS: Investigations as
13 in.

14 Q. (BY MR. ECKLUND) The ones
15 we're talking about, these -- the reports for
16 the Oro Valley and others, where there was a
17 determination as to whether or not there
18 should be a formal review or not. And
19 there's documentation sometimes, not always.
20 In that written documentation concerning the
21 review analysis potential investigation of
22 that order, have you ever seen any of those
23 documents?

24 A. These reports? Or the review
25 of it?

1 Q. The review of.

2 A. I've seen reviews.

3 Q. Okay.

4 How long are the reviews?

5 A. It depends.

6 I mean, it depends on what is
7 found as the review progresses.

8 Q. Couple pages? 50 pages?

9 A. It depends.

10 Q. Okay. You're familiar with
11 mean, mode, averages, and the like?

12 A. Mm-hmm. (Witness nods.)

13 Q. Do you think more than half of
14 them are under five pages?

15 A. I would not be able to answer
16 that.

17 Q. Okay. Are they forms that have
18 check boxes? Or are they written out like
19 letters? Paragraphs? Sentences?

20 A. The reviews themselves are
21 not -- they are going to be spreadsheets.
22 They're going to be other data pulls that
23 make sense in terms of process.

24 Q. Okay.

25 We talked earlier about NADDI

1 as a group that you've attended conferences
2 for a number of years and have been a
3 participant in for a number of years. Are
4 you familiar with the National Association of
5 Chain Drug Stores?

6 A. NACDS, I believe?

7 Q. Yes.

8 A. Yes.

9 Q. And are you actively involved
10 in the NACDS?

11 A. I am not.

12 Q. Are you involved at all in the
13 NACDS?

14 A. No.

15 Q. Okay. Do you remember
16 participating in a -- I suppose it was a
17 training in or around November of 2013,
18 concerning pharmacy loss prevention with
19 Ed Shavira from Walgreens, Nate Hartle from
20 Target, Sophia Lay from Rite Aid, and
21 John Robinson from CVS Caremark?

22 A. What was the title?

23 Q. It was NACDS pharmacy loss
24 prevention, and it concerned the transition
25 of hydrocodone from C-III to C-II on new

1 businesses.

2 Do you recall that?

3 A. I recall that group, and I
4 recall collaborating with them on theft and
5 shrink and the things that we are discussing
6 here as far as impacting our pharmacy
7 physical structure.

8 If we're having robberies in
9 Houston, Texas, is that impacting more
10 broadly? Are you guys experiencing the same
11 thing? But in terms of relative to NACDS, as
12 I sit here today, that -- I don't recall the
13 specifics of that.

14 Q. So the discussions that you
15 would have had concerning the rescheduling of
16 hydrocodone from C-III to C-II would have
17 been focused on concerns about robberies,
18 burglaries, security, both operational and
19 physical of the pharmacy's prevention of
20 theft and loss of the pills in transit?

21 A. And what is the unintended
22 outcome of this move.

23 Q. Do you recall any discussions
24 about what the intentions of that move was?

25 The unintended outcome of this

1 move. So they're escalating it from C-III to
2 C-II. Do you have an understanding of why
3 the DEA would have wanted to move hydrocodone
4 from C-III to C-II?

5 A. I can't speak for the DEA, but
6 I know that that was -- at that time, that
7 was our primary focus, is are there going to
8 be any unintended outcomes as a result of
9 those moves?

10 Q. Do you recall whether Walmart
11 or anyone else in the NACDS lobbied against
12 the elevation from C-III to C-II for
13 hydrocodone?

14 A. I do not.

15 Q. So the unintended consequences
16 that you're thinking about for Class III
17 escalation for hydrocodone to Class II, those
18 focused on theft and loss?

19 A. And robberies, correct, and
20 loss.

21 Q. Is that because in your
22 collective experience, the individuals I
23 mentioned earlier who were involved in this
24 NACDS pharmacy loss prevention, that there
25 was a belief that a Class II product would be

1 a larger target for theft than a Class III?

2 A. There was -- the discussions
3 were more around if this -- if this -- once
4 this rolls through, what is good -- is there
5 going to be any impact at all. There may be
6 no impact.

7 But if there are, what are we
8 doing to get ahead of it from a facility
9 security standpoint?

10 Q. Do you recall any other changes
11 in asset protection that you or others in
12 your group were responsible for implementing
13 upon the escalation of hydrocodone from C-III
14 to C-II?

15 MR. VARNADO: Object to form.

16 THE WITNESS: No.

17 Q. (BY MR. ECKLUND) And you had
18 some discussions about how this may impact
19 loss. There might be some unintended
20 consequence based upon the escalation,
21 because it could potentially prompt theft or
22 loss of the products and potentially create
23 some additional security concerns from an
24 operational or a physical pharmacy security
25 standpoint.

1 Beyond that, are there any
2 other ways in which the escalation from
3 Category 3 or Class III, Category 2 or
4 Class II, impacted your responsibilities or
5 your role within Walmart?

6 A. I don't recall any -- or not
7 necessarily, but I don't recall any changes
8 that were prompted as a result of that
9 rescheduling.

10 Q. Do you recall whether
11 hydrocodone was soon added to the over 20 or
12 over 50 reports?

13 A. It would have been.

14 Q. Again, we're going to hand you
15 two emails and the attachments now.

16 (Walmart-Beam Deposition
17 Exhibit 8, 10-16-14 email from Jeff
18 Abernathy. Subj: Over 20/50 Report.
19 WMT_MDL_000018858-18859 with
20 attachment, was marked for
21 identification.)

22 (Walmart-Beam Deposition
23 Exhibit 9, 10-16-14 email from Jeff
24 Abernathy. Subj: Over 20/50 Report.
25 WMT_MDL_000018862-18863, was marked

1 for identification.)

2 Q. (BY MR. ECKLUND) The reason
3 we're giving you both, the one included the
4 attachment. The other's a reply that didn't,
5 but we want you to have both conversations.

6 It's a continuation. So no
7 need to read it twice. The attachment is
8 only included once.

9 A. I see.

10 Q. Do you see what I'm talking
11 about?

12 A. Yes, sir.

13 Q. Okay.

14 MR. VARNADO: Take your time
15 and read it.

16 MS. HOSMER: What's the Bates
17 number?

18 MR. ECKLUND: It's 18858. And
19 18862.

20 And the attachment, which was
21 produced in native format, is 18859.

22 MS. HOSMER: Thank you.

23 Q. (BY MR. ECKLUND) So there's
24 another new name on this email chain. It's
25 Scott Peacock. Who is Scott Peacock?

1 A. Scott Peacock is an analyst
2 within global investigations.

3 Q. Did he report to you?

4 A. He does not.

5 Q. Did he report to Mr. Abernathy?

6 A. He does not.

7 Q. Do you know to whom he
8 reported?

9 A. During this time frame, he
10 would have reported to -- he would have
11 report --

12 Let's see. 2014. I think he
13 would have reported to -- I don't know
14 exactly who he would have reported to, at
15 that -- it was -- that was during a
16 transition from asset protection to global
17 investigation. He was within our group,
18 meaning GI.

19 Q. And Brooke Leverett?

20 A. Brooke Leverett replaced
21 James Greer in that position. She was the
22 senior manager of logistics asset protection.

23 Q. Okay. So the email sent by
24 Mr. Abernathy, "Let's talk about hydro." And
25 he's referring to hydrocodone.

1 "As with everything at
2 Distribution Center 6045 over the last week
3 and a half, hydro has affected the Over 20
4 Report as well. I talked to Kristy" -- based
5 on the email it's Kristy Spruell -- "about it
6 on Monday and I want to provide a report that
7 is as complete as possible with the volume
8 increase we are experiencing. Before hydro
9 an Over 20 report on a heavy day would have
10 been about 50 lines (item/store combo),
11 Monday the report was over 600 lines."

12 It continues on, "The report is
13 generated from CSOS." C-S-O-S.

14 Are you familiar with, as I
15 understand it, you guys refer to it as
16 "CSOS"?

17 A. I've heard the term "CSOS."
18 I'm not familiar with that particular
19 software.

20 Q. It's not something you use in
21 your role?

22 A. No, sir.

23 Q. So it talks about "A four-week
24 total on averages have been -- to be
25 researched and calculated. To add to that,

1 the database that runs production in the
2 vault is the same database.

3 "I have to access to research
4 the line items. It can and has slowed
5 production in the vault when I try to
6 research these items." And there's a
7 parenthetical "(depends on the amount of data
8 I'm pulling). And due to the resources using
9 the database, it doesn't retrieve the
10 information quickly. It takes about one
11 minute without any interruptions to complete
12 one line on the report. 50 lines on a heavy
13 day is at least an hour. That's if I'm not
14 pulled away to do other things. 600 lines,
15 that's ten-hour day without a break."

16 Do you see that?

17 A. I do.

18 Q. Was anyone else performing the
19 same role, pulling data, reviewing data, that
20 would have been on these daily reports,
21 beyond Jeff Abernathy?

22 MR. VARNADO: Object to form.

23 THE WITNESS: I don't know.

24 That was within DC.

25 Q. (BY MR. ECKLUND) Okay. So

1 this is after the DEA had escalated
2 hydrocodone from Class III to Class II;
3 correct?

4 This is October of 2014.

5 A. That would have been
6 afterwards, yes.

7 Q. And it's now part of the over
8 20 report. It's added to the reporting
9 structure along with oxycodone, and it flags
10 over 600 lines.

11 Is there any reason to question
12 whether those 600 lines should have been
13 evaluated based upon the existing programs
14 and processes that were in place for
15 oxycodone, instead of what seems to be the
16 approach that was taken, which is lowering
17 the threshold to make it easier to get those
18 oxycodone -- the hydrocodones shipped?
19 Getting it reduced down to 100 lines.

20 Do you see that?

21 MR. VARNADO: Object to form.

22 THE WITNESS: I don't know the
23 intent in that email, in what
24 Mr. Abernathy meant.

25 Q. (BY MR. ECKLUND) It's fairly

1 clear, though, that at this point he wasn't
2 reviewing all 600 lines.

3 MR. VARNADO: Object to form.

4 Q. (BY MR. ECKLUND) "It's a
5 ten-hour break without a break."

6 And Mr. Abernathy was not going
7 to work ten hours a day without a break.
8 Correct?

9 A. I can't speak for what
10 Mr. Abernathy did or did not do.

11 Q. Does it sound like something
12 that Mr. Abernathy would do, work five days a
13 week, 50 hours, just reviewing these lines,
14 pulling them? Doing little else, without
15 breaks?

16 A. I've never managed or monitored
17 Mr. Abernathy's activity. I can't speak to
18 that.

19 Q. Does it sound reasonable for
20 somebody to do that, to sit there and view
21 600 lines, pulling each one, doing the data
22 all by themselves, with no breaks?

23 MR. VARNADO: Object to form.

24 THE WITNESS: I don't know.

25 Within that facility, I don't know

1 what's normal, what's not normal.

2 Because I don't work in that facility.

3 Q. (BY MR. ECKLUND) And then if
4 you had to do anything to understand any of
5 the entries on the over 20 report, that would
6 take additional time, beyond just the
7 pulling; correct? If you had to then
8 evaluate it, investigate it, analyze it,
9 assess it, consider it in any way beyond just
10 pulling it, it would be additional time,
11 correct?

12 A. Are you speaking --

13 Q. Yes, Mr. Abernathy?

14 A. -- for Mr. Abernathy? I don't
15 know what Mr. Abernathy's processes were.

16 Q. And if he had to review it and
17 then tell somebody else what he had seen,
18 that would be something in addition to just
19 pulling it?

20 A. I'm -- can you rephrase?

21 Q. Sure.

22 A. I'm not quite sure --

23 Q. What I'm reading here in
24 Mr. Abernathy's email is a cry for help.
25 Because he can't do this. If he's saying, "I

1 can't do this. 600 lines, that's a ten-hour
2 day without a break," that's him saying, "I'm
3 not doing this. I can't do this. This is
4 not going to happen. I'm going to take a
5 lunch break. I'm going to have to use the
6 bathroom. I'm going to have to do something
7 else. I may have to take a phone call. I
8 have other responsibilities. This isn't
9 going to work."

10 That's how I'm reading this.

11 I don't think it's reasonable
12 for anybody to read it any other way, as if
13 Mr. Abernathy was going to do this
14 continuously, that he was going to sit there,
15 in a room, and review and pull lines all day,
16 every day, from the sunup until sundown, ten
17 hours a day, and if, God forbid, the
18 following week it pulls 1,000 lines, he's
19 there for 24 hours. Right? I don't think
20 that happens.

21 So what I'm trying to
22 understand is, this occurs; right? He's
23 saying, "I can't do this." Anything else
24 that you would want to do with the over 20
25 reports. Recall, we talked about that

1 process, the flow. It's an over 20. And
2 then what do you do? You have to investigate
3 it. Other people have to investigate it.
4 There's possibility of an analysis. There's
5 an assessment. There's a flow. That flow
6 can't happen if nothing's moving because
7 Mr. Abernathy can't get through all 600
8 lines. Correct?

9 MR. VARNADO: Object to form of
10 the question.

11 THE WITNESS: We were
12 responding to the information and data
13 that was flowed to us. If it did not
14 flow to us, we didn't know that there
15 was an exception pending.

16 Q. (BY MR. ECKLUND) Okay. So if
17 Mr. Abernathy couldn't get through the
18 dailies, if, say, for example, he could only
19 get through 200 out of the 600, and then the
20 next day there's another fresh set of 600 or
21 another 400 or 300, and he still can't get
22 through them all, he's not clearing what's on
23 his desk, so you're not going to see them,
24 was it your understanding that those orders
25 would have been held and not filled, or would

1 they have been cleared?

2 A. I have no knowledge of what the
3 processes there were completed within the DC
4 or who else may have been involved in those
5 processes.

6 Q. Okay. Now, Mr. Abernathy
7 continues in the next paragraph. It says,
8 "The last two days the report seems to be
9 manageable at about 100 lines."

10 So he -- right there he's
11 telling you that 600 lines is not manageable.
12 100 seems to be a threshold. Or close.

13 Do you see that?

14 A. I do.

15 Q. "But it may vary based on daily
16 volume which we're trying to figure out. As
17 I said before, I want to give everyone the
18 most complete report possible without taxing
19 the system more than necessary. I'm open to
20 suggestions you may have. Here are mine.

21 "I will still run the report to
22 list all items, store combinations over
23 20 bottles. I will continue to research and
24 cut all oxycodone 30-milligram bottles over
25 20 bottles. I will research all orders over

1 50 bottles, and/or unusual orders. I will
2 highlight all the orders which were cut."

3 Is Mr. Abernathy suggesting
4 here that he's going to be dealing with
5 hydrocodone as well?

6 The suggestion that he's
7 providing to everyone is that he's going to
8 do over 20s for oxycodone 30, but he doesn't
9 want to do anything additional for
10 hydrocodone, based on his four bullets.

11 MR. VARNADO: Object to form.

12 THE WITNESS: I'm --

13 Q. (BY MR. ECKLUND) Do you see
14 the word "hydrocodone" in the four bullets?

15 A. I don't see the word
16 "hydrocodone."

17 Q. Is there any possible way you
18 can interpret this to suggest that
19 Mr. Abernathy at that time was open to
20 continuing to research and cut all
21 hydrocodone orders over 20 bottles?

22 MR. VARNADO: Object to form.

23 THE WITNESS: As I sit here
24 today, I do not recall seeing this
25 particular email from Mr. Abernathy,

1 so I do not know what his intent was
2 or what -- or who else was involved in
3 discussions around that.

4 Q. (BY MR. ECKLUND) Do you know
5 whether, in October of 2014, Mr. Abernathy or
6 anyone else was taking any steps to review
7 and understand all of the hydrocodone orders
8 that were flagging in the reports prior to
9 shipping?

10 A. I don't know that.

11 Q. Let's go to the next page. Or
12 the next exhibit. The email, the follow-up
13 from James Greer.

14 "Jeff, I think this makes it
15 more manageable. If I'm not mistaken, the
16 over 20 report was first started due to oxy.
17 We have over 20, but we do not cut anything
18 except the oxy 30. Prior to going C-II,
19 hydro was always at 50" bottles -- "and will
20 continue" -- and I added "bottles" -- "and
21 will continue to be until the SOM system is
22 in place.

23 "Since we are not doing
24 anything at this level with anything other
25 than the oxy 30 and hydro, I do not see any

1 reason why we should research anything but
2 those items at this time.

3 "Just my thoughts. Jim."

4 So a few questions.

5 At this point it appears that
6 the only drug, according to Mr. Greer, that
7 was being cut was oxy 30, nothing else, at
8 20. And hydro was being cut at orders of 50.

9 Do you see that?

10 A. I see those orders on the
11 paper, yes.

12 Q. And are you aware whether other
13 prescription drugs -- I can't recall from
14 your testimony earlier. Are you aware
15 whether other prescription drugs,
16 noncontrolled substances, not C-IIs, were
17 being cut at orders above 50, if, say, for
18 example, a pharmacy wanted to order 70
19 bottles of birth control medications?

20 A. I've never seen those on a
21 report.

22 Q. Well, not on a report, but I'm
23 asking whether you have a general awareness
24 about whether cutting would be done for
25 warehouse management concerns as well as

1 controlled substances.

2 A. I'm not aware of it. Of any of
3 those policies or primers or anything of that
4 nature taking place.

5 Q. Okay. Now, here it says that
6 "Hydro has always been cut at 50 and will
7 continue to be until the SOM system is in
8 place."

9 Do you see that?

10 A. I do.

11 Q. Okay. So as I read this, it
12 seems as if Mr. Abernathy was convincing
13 enough to Mr. Greer that they weren't going
14 to do cuts at 20 for hydrocodone because of
15 the number of rows it would flag, and that it
16 would not be a manageable report for him to
17 get through.

18 So instead, Mr. Greer suggests,
19 "We'll just continue to cut it at
20 50 bottles."

21 Is my interpretation consistent
22 with your interpretation of this email from
23 Mr. Greer?

24 MR. VARNADO: Object to form.

25 THE WITNESS: You would have to

1 speak with Mr. Greer about that.

2 I'm -- that seems like a conversation
3 between Mr. Greer and Mr. Abernathy.

4 Q. (BY MR. ECKLUND) Well, you're
5 copied on the email, so ...

6 A. I agree, I -- I mean, I see
7 that I am copied on it. I do not recall
8 responding to this email or having further
9 input on that.

10 Q. Did you -- you don't recall
11 doing anything in response to it either?

12 A. I have no recollection of this
13 email during this time frame.

14 Q. Okay. Do you have any
15 recollection about why only hydrocodone and
16 oxycodone were considered in this email, the
17 20 and 50 reports?

18 A. I don't.

19 Q. So you have no understanding
20 about why other drugs weren't considered?

21 MR. VARNADO: Object to form.

22 THE WITNESS: I don't see
23 anywhere in there where other drugs
24 were excluded, but I don't see
25 anywhere in there where that is

1 addressed.

2 Q. (BY MR. ECKLUND) Well, if
3 they're not included in the email and they're
4 not included in Mr. Abernathy's charge to
5 complete tasks, he's not going to do it.
6 He's already said -- and I'm paraphrasing.
7 He's fully committed, just on oxy and
8 hydrocodone. He has no additional bandwidth.
9 He has no additional time. 600 rows was not
10 manageable. He needed to cut it down.

11 So he gave his bullets and
12 said, "Folks, let's cut this to a manageable
13 level. Here's a suggestion." And Mr. Greer
14 says, "That makes it more manageable."
15 Right? He agrees with Mr. Abernathy. He
16 says, "I think this makes it more
17 manageable."

18 So he's agreeing to these four
19 bullets delineated in Mr. Abernathy's prior
20 email, that he would still run the report for
21 bottles over 20, that he would continue to
22 research and cut all oxycodone 30-milligram
23 bottles. He would research all orders over
24 50 bottles and/or unusual orders, and he
25 would highlight all orders which were cut.

1 But he would only be cutting
2 hydrocodone orders over 50 bottles?

3 MR. VARNADO: Objection, form.

4 THE WITNESS: And could you
5 repeat the question, please?

6 Q. (BY MR. ECKLUND) Is there any
7 indication in here that Mr. Abernathy was
8 going to be cutting hydrocodone bottles at
9 orders below 50?

10 A. I do not -- I can't interpret
11 this particular email because I don't recall
12 what that was. But I don't want to read
13 anything into it either.

14 Q. If he were cutting them at
15 other numbers, or at other levels, would it
16 make any sense as a monitoring process?

17 If he, for example, said, "I'm
18 not going to cut hydro at 50. Instead I'm
19 going to cut it at 60 bottles," or
20 alternatively, "I'm not going to cut it at
21 50. I'm going to cut it down to 40,"
22 Mr. Abernathy is not suggesting that he's
23 going to take some wide discretion to make
24 his own judgment calls on what to cut and to
25 which number?

1 A. Mm-hmm.

2 Q. Or that he was exercising any
3 judgment on the level to which it should be
4 cut. Instead, he had hard limits, 20 and 50.

5 Do you see anything in this
6 email, or recall any occasion where hard
7 limits were flexible, squishy? Could be
8 adjusted, based on the fly?

9 MR. VARNADO: Object to form.

10 THE WITNESS: I don't recall
11 that being a discussion point, no,
12 sir.

13 Q. (BY MR. ECKLUND) Would that
14 make sense to you as part of a process that
15 would be repeatable, defensible, due
16 diligence, one where it's wide discretion to
17 Mr. Abernathy to decide how many pills to
18 ship, "20, I could give more than 20. I
19 could give you less. 50, if I feel like 50,
20 that makes sense. I'll do it, but otherwise
21 I can give more"?

22 MR. VARNADO: Object to form.

23 THE WITNESS: I can't comment
24 on that one way or the other in terms
25 of an opinion.

1 Q. (BY MR. ECKLUND) Are you
2 familiar with any other processes within
3 Walmart concerning controlled substances
4 where hard limits are not followed?

5 MR. VARNADO: Object to form.

6 THE WITNESS: I'm not
7 familiar -- I'm not -- as a part of
8 that review, we're not a part of it,
9 so I'm not aware of any of it.

10 Q. (BY MR. ECKLUND) In your role
11 in your department, are there any hard limits
12 or guidelines provided to you that you're
13 asked to follow?

14 A. With respect to this?

15 Q. No. At all.

16 A. Global investigations has
17 instructions. Corporately we have
18 instructions.

19 Q. And do you follow the
20 instructions that you receive from global
21 investigations?

22 A. Yes. As closely as possible?

23 Q. And if you were told that you
24 couldn't ship more than 20, that there was a
25 hard limit and you had to cut it down to 20,

1 for example, in the logistics -- in the
2 shipping, distribution phase, if you became
3 aware in your role in operations asset
4 protection, that trucks carrying in excess of
5 100 bottles were more likely to be the
6 victims of theft, that they were targets, and
7 policy was do not put more than 100 bottles
8 on a truck, would you follow that process?

9 MR. VARNADO: Object to form.

10 THE WITNESS: I can't speculate
11 on that particular scenario, because
12 I've never faced that particular
13 scenario specifically.

14 MR. ECKLUND: Okay.

15 MR. VARNADO: We've been going
16 about an hour and 20 minutes.

17 MR. ECKLUND: We can take a
18 break.

19 MR. VARNADO: Yeah.

20 VIDEOGRAPHER: 2:28. We're off
21 the video record.

22 (Recess taken, 2:29 p.m. to
23 2:41 p.m.)

24 VIDEOGRAPHER: 2:41. We are on
25 the video record.

1 Q. (BY MR. ECKLUND) Mr. Beam, we
2 just took another short break, and I wanted
3 to turn back to one of the earlier documents
4 we marked. Actually, the first document,
5 Exhibit 1. Do you recall we had that
6 paragraph that we flagged talking about the

■ [REDACTED]

8 Do you recall that?

9 MR. VARNADO: Do you have the
10 page number, Counsel?

11 Q. (BY MR. ECKLUND) I can get
12 that for you, yes.

13 We can go with page 57289.

14 We can use the same questions.
15 57289.

16 And this is from one of your
17 evaluations, diversion, mitigation, and

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

2 First, do you have an
3 understanding of how many of those lost
4 dosage units were taken through a robbery?

5 A. Off the top my head, I do not.
6 But there were a substantial number that were
7 in-transit loss, and robbery.

8 Q. Okay.

9 So I want to try to break it
10 down.

11 So in-transit loss, robbery,
12 and burglaries.

13 So robbery, person is armed.
14 Other people see them. Right?

15 Burglary, more than likely
16 video cameras are catching them but maybe not
17 individuals. Thinking of somebody coming in
18 after hours. In-transit loss -- I'm
19 imagining, but you can help me understand
20 it -- a truck being shipped, and then someone
21 figures out that there may be prescription
22 opioids or something else that they want on
23 the truck and they stop the truck and rob the
24 truck.

25 Is that what you're thinking of

1 here?

2 A. In terms of in-transit loss?

3 Q. Yes.

4 A. No.

5 Q. What are you thinking of an
6 in-transit loss?

7 A. In-transit loss are that, that
8 it is released from the warehouse, and it is
9 shipped through one of those third parties,
10 and somewhere in that process it goes awry.

11 Q. Poof?

12 A. (Witness nods.)

13 Q. Okay.

14 What percentage, relatively,

15 [REDACTED]

16 [REDACTED]

17 were taken through burglaries of Walmart
18 pharmacies?

19 A. The breakdown, that number, I
20 couldn't. Because these catch everything
21 from the one person taking one tablet all the
22 way through every one of those that we've
23 discussed, the theft, the robberies, the
24 burglaries. This is a summation.

25 Q. Do you know whether the loss

■ [REDACTED]

■ [REDACTED]

3 A. I can't answer that.

4 Q. So do you think it's possible
5 that more than half of them could have been
6 the result of armed robberies --

7 A. I can't speak --

8 Q. Of Walmart pharmacies?

9 A. -- to that either.

10 Q. You're the one that's

■ [REDACTED]

■ [REDACTED]

13 MR. VARNADO: Object to form.

14 Q. (BY MR. ECKLUND) Ultimately
15 your team is responsible?

16 A. Mm-hmm. (Witness nods.)

17 Q. So ultimately your team would
18 know what the outcome of your investigations
19 and your analyses were. Correct?

20 MR. VARNADO: Object to form.

21 THE WITNESS: We do know.

22 Q. (BY MR. ECKLUND) And within

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

■ [REDACTED].

2 Do you see that?

3 A. I do.

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

13 So just a couple of questions
14 about this paragraph and the process within
15 asset protection.

16 Significant investigations, why
17 were they significant? What was -- what made
18 them significant?

19 A. In our experience at that time,
20 that was -- those were ones that were not
21 normal. That would have been a heavy loss.

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

10 A. Successful resolution is we had
11 an understanding, or we had successfully
12 investigated to determine the reason for the
13 loss.

14 Q. Based upon what?

15 A. Based upon investigative
16 process.

[REDACTED]

[REDACTED]

19 A. I don't.

[REDACTED]

[REDACTED]

22 A. As I sit here today, I can't
23 state that.

24 Q. Do you know whether any of them
25 involved burglaries?

1 A. I don't.

2 Q. Do you know whether any of them
3 involved in-transit loss?

4 A. I don't.

5 Q. Are there records within your
6 department or your group that would reflect

■ [REDACTED]

■ [REDACTED]

9 A. Only the case files.

10 Q. And where are those case files
11 kept?

12 A. Those case files are kept in
13 the case management system.

14 Q. Is that an electronic system?

15 A. It is.

16 Q. What's it look like? Is it in
17 Excel? Is it a Word document? Is it a
18 database? What does it look like? Describe
19 it for us.

20 A. It is -- it's -- it is an input
21 system. I mean, it's very hard to describe.

22 You input the information, in
23 the specific fields, and then it saves it.

24 It preserves those documents.

25 Q. Do you recall whether it's a

1 SQL database?

2 A. I'm not a technical person.

3 I -- it's not a SQL database as I know it.

4 Q. If I could direct your
5 attention to Bates page 57310.

6 So the one we just went over
7 was fiscal year 2013 annual evaluation. I
8 want to direct your attention back to fiscal
9 year 2015.

10 In the evaluation, it reads,

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

15 those would also be included within the case
16 management system?

17 A. In here. Right here.

18 Those would be.

19 Q. And within those case files, it

■ [REDACTED]

21 robberies? Closed investigations, how many

■ [REDACTED]

23 A. Of the total investigations, I
24 don't know.

25 Q. No, no. I'm saying the case

1 files themselves would reflect.

2 A. Yes.

■ ■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

6 involved loss during shipping, how many

7 involved a burglary, how many involved a

8 robbery, how many were significant,

■ [REDACTED]

10 Right? I would be able to see that in the
11 case files?

12 MR. VARNADO: Object to form.

13 THE WITNESS: I don't know

14 exactly how that is stored on the back

15 end, but I know what was put in on the

16 front end.

17 Q. (BY MR. ECKLUND) Is it your
18 understanding that some of the information
19 that's put in on the front end might not be
20 stored?

21 A. No, it's -- it would have been
22 stored. But I cannot attest to, at this
23 time, any records that will go back to 2015.

24 Q. Do you recall any
25 investigations concerning illicit use?

1 MR. VARNADO: Object to form.

2 THE WITNESS: And --

3 MR. ECKLUND: Illicit use of
4 controlled substances?

5 MR. VARNADO: Same objection.

6 Q. (BY MR. ECKLUND) Recall the
7 sample I gave you earlier. The parent gets
8 the prescription from the doctor. Mom or Dad
9 puts the medication in the medicine cabinet.
10 Children come home, high school age. They
11 see the pill bottle. They open the pill
12 bottle. They take some pills. They leave.

13 A. I'm not aware of any
14 investigations internally relative to that
15 matter.

16 Q. That's not something you've
17 ever investigated personally?

18 A. Correct.

19 Q. And it's not something that
20 you've ever reviewed for any of your
21 analysts; correct?

22 MR. VARNADO: Object to form.

23 THE WITNESS: I don't recall
24 seeing anything of that nature.

25 Q. (BY MR. ECKLUND) Do you recall

1 any meetings during fiscal year 2016 that
2 appeared to have continued beyond that fiscal
3 year, with PricewaterhouseCoopers, KPMG, or
4 Deloitte, that were focused on providing you
5 and your team a better understanding of
6 existing systems and processes that could
7 help you make better progress in your
8 analysis?

9 MR. VARNADO: Object to form.

10 THE WITNESS: Health and
11 wellness data.

12 Q. (BY MR. ECKLUND) Yeah. If you

█ [REDACTED]
█ [REDACTED]
█ [REDACTED]
█ [REDACTED]
█ [REDACTED]
█ [REDACTED]
█ [REDACTED]
█ [REDACTED]
█ [REDACTED]
█ [REDACTED]
█ [REDACTED]
█ [REDACTED]

22 Do you recall --

23 MR. VARNADO: Maybe give him
24 just a moment to review the document.

25 THE WITNESS: Yes, I recall

1 those.

2 Q. (BY MR. ECKLUND) What were you
3 guys talking about?

4 A. Those were non-health and
5 wellness-related matters.

6 Q. Did they have anything to do
7 with diversion, theft, loss, and
8 investigations?

9 A. No. Not within the pharmacy or
10 health and wellness.

11 Q. It had nothing to do with
12 controlled substances?

13 A. Correct.

14 [REDACTED]
15 [REDACTED]
16 had nothing to do with controlled substances,
17 theft and loss, diversion?

18 A. Correct.

19 Q. Okay. Direct your attention to
20 page 57326.

21 Again, 57326.

22 Top third of the page, it's
23 next to the redacted privilege box.

24 [REDACTED]
25 [REDACTED]

1 redacted.

2 Who's on the controlled
3 substances advisory panel?

4 A. During this time, there would
5 have been members of compliance, and legal.
6 And I participated in that for a period of
7 time.

8 Q. Do you still participate?

9 A. I do not.

10 Q. At this point in time, were
11 there voting and non-voting members of the
12 controlled substances advisory panel?

13 A. There were.

14 Q. Were you a voting member?

15 A. I was at that time.

16 Q. Why were you a voting member of
17 the controlled substances advisory panel?

18 MR. VARNADO: Object to form.

19 THE WITNESS: During the time
20 that I was involved, then it was going
21 through looking at operational
22 processes and policies. And those are
23 defined as being things like --

24 MR. VARNADO: Let me -- just
25 let me introduce an objection here, in

1 terms of discussing what the advisory
2 panel discussed, as being privileged.
3 Happy to talk about the mechanics and
4 members.

5 THE WITNESS: Understood.

6 MR. VARNADO: But directing you
7 not to answer questions or reveal what
8 was discussed in panel meetings that
9 were conducted at the direction of
10 counsel.

11 Q. (BY MR. ECKLUND) Do you
12 understand what he just said to you?

13 A. I do.

14 Q. Okay. So don't disclose
15 privileged information that the attorneys
16 within Walmart or outside counsel were
17 investigating, evaluating at the time. But
18 topics that did not concern privileged
19 information, those are fair.

20 Do you understand?

21 A. I do.

22 Q. I want to know all of those
23 other topics.

24 MR. VARNADO: If any.

25 THE WITNESS: I cannot recall

1 any that would not have been covered
2 by privilege under these meetings.

3 Q. (BY MR. ECKLUND) How many
4 times did you meet?

5 A. I don't recall.

6 Q. What was the general purpose of
7 the controlled substances advisory panel?

8 A. We were looking at enhancing
9 processes in that environment.

10 Q. At this time were you concerned
11 with fines, penalties, and legal actions
12 brought against your competitors?

13 A. That was not a discussion
14 point.

15 Q. Who asked you to be on the
16 panel?

17 A. Compliance at that time.

18 Q. Who in compliance asked you to
19 be on the panel?

20 A. Jim Greer. Or not Jim Greer.
21 Just a minute -- Langman.

22 Q. Who else was on the panel
23 besides Jim Langman -- is it?

24 A. Correct.

25 Q. Was Jim Greer also on the

1 panel?

2 A. He was not.

3 Q. So Jim Langman, yourself, and
4 who else?

5 A. Karen Davila.

6 Q. Who is Karen Davila?

7 A. She was legal counsel for
8 health and wellness.

9 Q. Who else?

10 A. George Chapman.

11 Q. And George Chapman. And anyone
12 else?

13 A. Chad Ducote.

14 Q. Chad Ducote? Okay.

15 A. Those are all I remember.

16 Q. Are there people you're
17 forgetting right now? Is it a bigger group?
18 Ten people? Bigger? You just don't remember
19 the names?

20 A. I don't remember, and I don't
21 remember the total number of people who would
22 have been on this panel.

23 Q. Where did you guys meet?

24 A. Various locations. But in the
25 home -- in Walmart offices.

1 Q. In the home office area?

2 A. Home office area, various
3 meeting rooms.

4 Q. So always in Bentonville,
5 Rogers areas, not outside of Arkansas?

6 A. Correct.

7 Q. Did you ever meet at any of
8 your outside counsels' offices?

9 A. No.

10 Q. Okay.

11 A. I did not.

12 Q. Well, you were on the
13 controlled substances advisory panel and you
14 would have gone for the meetings; right?

15 A. I would have gone to meetings,
16 but I've never gone to a meeting outside of
17 the Walmart home office campus.

18 Q. So if you went to all of the
19 meetings and you didn't go to any outside,
20 then it's fair to say that they didn't happen
21 outside.

22 MR. VARNADO: That you are
23 aware of.

24 THE WITNESS: That I'm aware
25 of. I don't recall any meetings

1 outside of the ones I discussed with
2 you.

3 Q. (BY MR. ECKLUND) Did you
4 consider it to be an achievement being asked
5 to participate on this controlled substances
6 advisory panel? Something reflected in your
7 evaluation. It seemed like you were fairly
8 proud of that.

9 MR. VARNADO: Object to form.

10 THE WITNESS: I didn't consider
11 it an achievement. I considered it as
12 outlining my performance for that year
13 and the things I was involved with.

14 Q. (BY MR. ECKLUND) How many
15 people on the substance advisory committee
16 were voting members and how many were not?

17 MR. VARNADO: Object to form.

18 THE WITNESS: I don't recall.

19 Q. (BY MR. ECKLUND) Were most of
20 you voting members?

21 A. I don't recall.

22 Q. Was there -- were there minutes
23 kept for these meetings?

24 A. There were.

25 Q. And would the votes have been

1 reflected in the minutes?

2 A. I don't recall what would have
3 been documented in the minutes, because those
4 minutes were never shared outside of -- well,
5 the meeting minutes were never shared.

6 Q. They were never shared to the
7 other panel members, including yourself?

8 A. They were reviewed.

9 Q. Reviewed and then signed?
10 Reviewed and approved?

11 A. No, those were reviewed at the
12 beginning of each meeting, what was covered
13 in the previous meeting. And then minutes
14 were kept of that meeting.

15 Q. Who did the controlled
16 substance advisory committee members report
17 up to?

18 MR. VARNADO: Object to form.

19 THE WITNESS: I'm not aware.

20 Q. (BY MR. ECKLUND) It's not
21 something that came up in any of the
22 meetings?

23 A. It was -- it was not anything
24 that I was personally aware of, where the
25 information discussed went.

1 Q. I want to direct your attention
2 back to interrogatory responses.

3 And just had a couple of
4 questions concerning the drug diversion
5 coordinators. You don't need the document to
6 answer these, just general questions.

7 Do you recall the time period
8 during which you oversaw the drug diversion
9 coordinators?

10 A. It would have been from -- I
11 don't recall specific, but as I sit here now,
12 it was somewhere between 2009 and '10.

13 And all the way through the --
14 in 2010, those positions were restructured.

15 Q. Restructured how?

16 A. I mean, these went through a
17 review process, and those positions were
18 converted from coordinators to investigator
19 positions.

20 Q. In one of the other manuals --
21 and this is also within your time period. It
22 bears Bates range 11107.

23 Throughout the day we've been
24 talking about orders of interest, suspicious
25 orders. The DEA defines orders of interest

1 as an order that warrants follow-up
2 evaluation to determine whether it's a
3 suspicious order, at least Walmart did at
4 this time.

5 Do you see that?

6 MR. VARNADO: Object to form.

7 THE WITNESS: I do see that.

8 Q. (BY MR. ECKLUND) Okay. When
9 you were evaluating -- sorry, strike that.

10 Were you ever involved in the
11 evaluation of an order of interest to
12 determine whether it was suspicious?

13 A. That was outside our lane.

14 Q. Okay. And the same with
15 follow-up for evaluation of a suspicious
16 order?

17 Those are orders of interest
18 which had been evaluated. So you wouldn't
19 take the baton from someone else who had
20 evaluated an order of interest and then ...

21 A. Right. No. We would not have
22 been involved.

23 Q. And you also wouldn't be
24 involved in determining that an order of
25 interest which had been evaluated and

1 determined not to be suspicious was in fact
2 not suspicious?

3 A. Once the determination was
4 made, we would not have been involved.

5 Q. Okay. Thank you.

6 Now, the drug diversion
7 coordinators, they would have received two
8 reports. They would have gotten the oxy 30
9 cuts, based upon some of the documents we've
10 gone through today, and they also would have
11 gotten information concerning other
12 controlled C-IIIs. Right?

13 MR. VARNADO: Object to form.

14 Q. (BY MR. ECKLUND) And we've
15 talked about those, and the workflow, and the
16 process flow; right? So there's C-IIIs
17 oxy 30, then there's everything else. We
18 talked a little about hydrocodone and how
19 that changed once hydrocodone went up.

20 Were there any other reports
21 that would have been evaluated by the drug
22 diversion coordinators for the investigators
23 concerning the requests for additional pills,
24 particularly the controlled substances?

25 So we have the oxy 30 report.

1 We've got the 50 report. We've got --

2 Anything else?

3 MR. VARNADO: Object to form.

4 Q. (BY MR. ECKLUND) You're nodding
5 no, but I need you to say --

6 A. Not that I'm aware of, no.

7 Q. Okay. Now, the percent of
8 total column reflected in this pharmacy
9 manual -- I'm just going to pop it up real
10 quick so you can see it again. You can see
11 it says 3.99 percent.

12 Do you see that?

13 A. I do.

14 Q. Percent of total column must be
15 reviewed for any entry above 3.99 percent.
16 Why don't you go back to the Oro Valley chart
17 where it had the oxycodone order and the
18 hydrocodone mix. We talked about those
19 earlier.

20 That's not it. It's the other
21 one.

22 Yes.

23 MR. VARNADO: Exhibit 7.

24 MR. ECKLUND: That's the one.

25 The one about Arizona.

1 Q. (BY MR. ECKLUND) So if you
2 look on that document, how many of those
3 would have had to have been investigated that
4 are over 4 percent?

5 A. I can't make a determination on
6 what would have had to have been investigated
7 just based on this limited data set.

8 Q. But the policy was, at least
9 according to -- and that time period again,
10 what's the year on the email?

11 A. This one was 7-8 of 2013.

12 Q. Right. And the effective date
13 for this policy that I just showed you was
14 November of 2010 through October of 2014. So
15 that's within this time frame, the
16 3.9 percent. 3.99 percent is within that
17 time period of that report.

18 So based upon the policy, every
19 one of those would have been investigated
20 over 4 percent. Correct?

21 A. Every one of these would have
22 been reviewed. That policy is a logistics
23 policy.

24 Q. Okay. So you don't know --
25 Okay. You don't know then?

1 A. I don't.

2 Q. All right.

3 And those reports were provided
4 on a monthly basis. If you look at the
5 bottom of the tabs, it shows you that?

6 A. Yes.

7 Q. Is that correct?

8 A. That is my recollection.

9 Q. Okay. They weren't provided on
10 a weekly basis. They were provided on a
11 monthly basis?

12 A. Mm-hmm.

13 Q. So if there was an
14 extraordinarily high order that came in, it
15 wouldn't necessarily immediately go to the
16 team to be evaluated. It would be in the
17 following month's report?

18 MR. VARNADO: Object to form.

19 Q. (BY MR. ECKLUND) Let's use your
20 fat-finger example from earlier today, the
21 70. Remember?

22 A. Mm-hmm.

23 Q. So if there was an order for 70
24 of oxycodone -- that's a big order of
25 oxycodone relative to the 20-bottle limit --

1 would that have been reflected on the monthly
2 report or would that have been sent
3 immediately to logistics?

4 A. Sent to logistics.

5 Q. I'm wondering to whom. You say
6 this goes to Walmart logistics and not to
7 you.

8 A. This came out of Walmart
9 logistics.

10 Q. Right.

11 A. And Walmart logistics is one
12 who does -- and manages all of the ordering.

13 Q. That part I understand. So
14 they get the data. They create the report
15 you're looking at. So they get this order of
16 70. Is that so high that they're going to
17 get it faster, act on it more quickly?

18 A. Their processes, I'm not -- I
19 can't speak to.

20 Q. And you wouldn't have -- you
21 wouldn't have gotten anything sooner than the
22 monthly report, though?

23 MR. VARNADO: Object to form.

24 THE WITNESS: I can't speak to
25 that completely.

1 Q. (BY MR. ECKLUND) Do you know
2 how the files were forwarded to the
3 appropriate drug diversion coordinator? Do
4 you recall we were talking about there were a
5 number of them?

6 A. Mm-hmm.

7 Q. Do you know how they were
8 channelled? Routed?

9 A. Those would have been email
10 distribution.

11 Q. Okay. But how would you decide
12 which one of the drug diversion coordinators
13 would take the responsibility for the
14 evaluation of a given report?

15 A. I didn't necessarily make that
16 determination. That would have come because
17 Jim Greer knew what the -- who the division
18 coordinators were. And he would send those
19 to the coordinator responsible for the
20 geographic area.

21 Q. So you managed the drug
22 diversion coordinators. Jim Greer managed
23 the process for channelling the work to them.
24 You would oversee that the work was being
25 completed, and if there were questions or

1 concerns raised by one of the drug diversion
2 coordinators, they might reach out to you,
3 ask you questions, get you involved, but you
4 weren't actively involved in who -- in the
5 determination of which one of the drug
6 diversion coordinators would handle which
7 reports?

8 A. Correct.

9 Q. Do you recall receiving weekly
10 health and wellness reports?

11 MR. VARNADO: Object to form.

12 THE WITNESS: You'd have to be
13 more specific.

14 MR. ECKLUND: Sure.

15 Q. (BY MR. ECKLUND) I'll just
16 pass you one. We don't need to talk about
17 all of them, because there's too many to talk
18 about in one day.

19 They look a lot like this.

20 So health and wellness
21 compliance focus areas steering meeting.

22 And this one's from July 16th
23 of 2015, but there are numerous reports that
24 look a lot like this with just the dates
25 changed on the front page and then the body

1 of the changes thereafter.

2 Do you recall receiving these
3 steering meeting ...

4 A. I do.

5 Q. What was the purpose of
6 circulating these health and wellness
7 compliance focus areas steering meeting
8 minutes, or slide -- do you call them
9 minutes? Slide decks? What do you refer to
10 them as? Reports?

11 A. I call them slide decks.

12 Q. What was the purpose for
13 circulating these weekly slide decks?

14 MR. VARNADO: Object to form.

15 THE WITNESS: To update on all
16 ongoing projects.

17 Q. (BY MR. ECKLUND) Updating?

18 A. All of the other key
19 stakeholders that were involved in those
20 projects.

21 Q. So you were updating each
22 other?

23 A. We were keeping the group
24 informed of where certain projects were on a
25 continuum.

1 Q. Did this group meet in person,
2 or just circulate these slide decks?

3 A. We met in person.

4 Q. How often?

5 A. Once a week.

6 Q. Where did you meet?

7 A. In home office campus. In the
8 home office building.

9 Q. Were there votes held within
10 this group?

11 A. No.

12 Q. And no voting members?

13 A. No.

14 Q. Okay. How many people were in
15 this group?

16 A. It varied, depending on which
17 project was being discussed.

18 Q. I'll show you this. Now, I'll
19 represent that this is 24368.

20 Now, there are color versions
21 of this, but the text doesn't change. In the
22 color versions, the Gs are green, and the Y
23 is yellow. Okay?

24 Towards the bottom of the page,
25 under the controlled substances work group,

1 here there are three people identified.

2 Miranda Johnson with two projects where she's
3 the owner and yourself. Do you see that?

4 A. I do.

5 Q. Okay.

6 And it says that you have a
7 "responsibility for ownership of building an
8 automated diversion analytics tool that
9 enables the company's ability to identify
10 chainwide indicators of potential diversion
11 activity."

12 Do you see that?

13 A. I do.

14 Q. Okay. The automated diversion
15 analytics tool that you were building, was
16 that focused on detecting potential theft and
17 loss in operations asset protection?

18 A. It was -- it was focused on
19 that effort.

20 Q. Okay. It was not focused on
21 illegitimate use of the pills?

22 A. Correct.

23 Q. And it wasn't focused on abuse
24 of the pills. It was again focused on
25 robberies, burglaries, theft during transit?

1 A. Correct.

2 Q. Correct?

3 Okay. And the analytical tool
4 that you were trying to build, were you
5 building that within a SQL software or
6 something else?

7 A. We were building that through a
8 third-party contractor.

9 Q. Which third party?

10 A. That would have been
11 Sysrepublic.

12 Q. And what is Sysrepublic?

13 A. Sysrepublic is a software
14 development company.

15 Q. And with whom did you work in
16 building the automated version analytics tool
17 at Sysrepublic?

18 A. There were numerous.
19 Renee DeWolf.

20 Q. Okay. Renee was the primary
21 person but there were a lot of them?

22 A. Yes.

23 Q. And did you complete this
24 project?

25 A. Unfortunately, no.

1 Q. Why not?

2 A. It became very technical and --
3 as the process evolved and programming and
4 coding continued, the company could not
5 develop the program to the level that we had
6 executed the contract from.

7 Q. I'm sorry, I don't understand
8 what that means.

9 So --

10 A. It means they couldn't give us
11 what they asked for.

12 Q. All right. I understand you
13 weren't getting what you wanted. I'm trying
14 to understand. So you said it became very
15 technical. The process evolved. The
16 programming, the coding, it continued. But
17 the company, the third party could not
18 develop the program to the level that you had
19 executed in the contract? Okay. And I want
20 to break your answer into little core pieces.
21 Okay?

22 So you said it became very
23 technical. What do you mean by this project
24 became very technical?

25 A. As it relates to all aspects or

1 all pieces of data that we were pulling into
2 this project, it was not just from one data
3 source. It was from multiple data sources.

4 Q. Which data sources?

5 A. Those were the Teradata. Those
6 also came from the daily long pulls. All of
7 the things that we were pulling manually
8 earlier, this was an opportunity and an
9 effort to consolidate those and automate that
10 process to increase efficiency and reduce all
11 of the other manual labor.

12 Q. You mentioned Teradata. Were
13 you also pulling data from Reddwerks?

14 A. No.

15 Q. What about Buzzeeo?

16 A. No. All of the data that came
17 out of the -- from distribution, all of those
18 uploaded into Teradata.

19 So we pulled all of our
20 information from Teradata, from third-party
21 vendors, from Alarm Central, relating to the
22 alarm codes. And also from GENCO, which is
23 our reverse distributor.

24 Q. What about Archer? Is Archer
25 data included in this?

1 A. It was not.

2 Q. Now, how did the process
3 evolve?

4 A. Can you clarify? I'm --

5 Q. That was part of your answer.
6 You said that the program became very
7 technical, and as the process evolved and the
8 programming continued, it couldn't develop
9 the program to the level that you had
10 executed in the contract.

11 So you mentioned process
12 evolution. I'm trying to understand. How
13 did it evolve?

14 A. The process of building this
15 data system that we had asked for. There
16 are -- there were key asks. And from those
17 asks, as those began to -- as the coding
18 continued, to try to achieve those, it was
19 unable to do so.

20 Q. So as the project was being
21 developed, the programming continued to
22 become bigger and bigger and bigger, and it
23 wasn't delivering what you had anticipated or
24 expected when you initially signed the
25 contract?

1 A. What it was doing was becoming
2 challenging -- or not challenging. It was
3 becoming difficult to keep those systems
4 updating and doing it in a timely fashion so
5 that the output was productive.

6 Q. And were those limitations
7 because of the data size or limitations due
8 to processing power?

9 A. I don't know. I'm not -- that
10 was not -- I'm not a technical person, so I
11 don't -- I would have to defer to the
12 technical specialist on that.

13 Q. Well, I mean, you were on the
14 team. That's why I'm asking you. So you're
15 running into these problems. Did anyone
16 explore whether bringing more processing
17 power behind it would enable you to get a
18 better handle on all of the data that was
19 input, so you could get the output?

20 MR. VARNADO: Object to form.

21 THE WITNESS: I don't recall
22 that being a discussion point around
23 that point -- around that data point.

24 Q. (BY MR. ECKLUND) Okay. And as
25 part of the work group for controlled

1 substances, were you also engaged with
2 Miranda Johnson in connection with her
3 projects? Or was she responsible for her --
4 execution of those?

5 A. She was responsible for
6 execution of those.

7 Q. In your role within operations
8 and asset protection, did you consider DEA
9 risk scores for controlled substances?

10 MR. VARNADO: Object to form.

11 THE WITNESS: Not as a part of
12 our investigative process.

13 Q. (BY MR. ECKLUND) Did you ever
14 provide reports or present in front of any of
15 the board members for Walmart?

16 A. Are you talking about at the
17 executive level?

18 Q. Yes.

19 A. No.

20 Q. Any senior executive
21 management?

22 A. I have had conversations with
23 our VP and I've had conversations with vice
24 presidents that -- I don't know what your
25 definition of senior executive is.

1 Q. That's a fair point.

2 We have chairpeople, CEOs, and
3 the like, along the board would be at the
4 uppermost levels that I'm thinking of. Then
5 you would have the people that would lead or
6 be responsible for particular departments,
7 divisions, obligations within the company.

8 So general counsel. Chief
9 financial officers and the like.

10 VPs, probably be a level below
11 for me.

12 And that might not be the case
13 for Walmart.

14 So, I'm wondering, to what
15 level did you report up to about your work in
16 your investigations? So it sounds like a
17 couple of VPs? And anyone above the VP level
18 in Walmart?

19 A. I did not report above the VP
20 level within Walmart.

21 Q. Okay.

22 Did you ever present to any
23 panels of VPs or just the one VP?

24 A. I've been in meetings in
25 collaboration with multiple VPs at the same

1 time.

2 Q. No, I'm not asking whether
3 you've been in meetings with them
4 collaboratively. I'm talking about
5 presentations of the work you're doing. Did
6 you give presentations? Did you tell them,
7 "Hi, I'm Greg Beam, and I want to give you
8 guys an update on this big project that I've
9 been handling. This is what we've been
10 doing. This is why we're doing it. This is
11 why this is important. This is what the
12 needs are. This is what we need to continue
13 to work towards. We're on pace to meet our
14 deadlines, our goal, second quarter of next
15 year."

16 I'm talking about presentations
17 to those people. They come in and watch you.

18 MR. VARNADO: Object to form.

19 THE WITNESS: No. I don't
20 recall any conversation or
21 presentations of that form.

22 Q. (BY MR. ECKLUND) Okay.

23 (Walmart-Beam Deposition

24 Exhibit 10, June 2014 Subj: RE: Cut
25 Report from D.C. WMT_MDL_000008419,

1 was marked for identification.)

2 Q. (BY MR. ECKLUND) This is going
3 to be marked as Exhibit 10, I believe.

4 And this is an email from
5 Miranda Johnson to you, Mr. Beam, that bears
6 Bates stamp 8419.

7 And if you look at the bottom,
8 it's from Miranda to you, June 10, 2014. Cut
9 report from DC.

10 And she's referring to DC 6045;
11 correct?

12 She's talking about controlled
13 substances.

14 MR. VARNADO: Object to form.

15 Q. (BY MR. ECKLUND) In the body
16 of the email.

17 Do you see that?

18 A. I don't know that she's
19 referring to 6045. But I can see that it
20 refers to controlled substances.

21 Q. Was there any other DC that was
22 distributing controlled substances on or
23 around June of 2014, aside from 6045?

24 A. Not for C-IIs.

25 Q. Okay. And the ones that you

1 were cutting, i.e. to 20 bottles, those were
2 C-IIs?

3 A. Correct.

4 Q. So it would have to be 6045,
5 because it's talking about controlled
6 substance orders. It's talking about
7 reductions to cut to the 20-bottle limit.

8 Do you see that?

9 A. I see the cut and the specific
10 reference to bottles.

11 Q. And there's no other store
12 where they were doing that -- or no other
13 distribution center where they were doing
14 that. So fair assumption, she's referring to
15 6045?

16 MR. VARNADO: Object to form.

17 THE WITNESS: I don't see 6045.

18 But I understand how that could be
19 concluded.

20 Q. (BY MR. ECKLUND) You don't
21 disagree with the conclusion?

22 A. I can neither agree or
23 disagree. It's just not here.

24 Q. Okay. Now, Miranda's writing
25 to you and she says, "Does your team get a

1 cut report from the DCs? We were walking
2 through the as-is project for the SOM project
3 and someone mentioned the report. We weren't
4 sure who was receiving it. I believe that it
5 lists all the CS orders that the DC reduced
6 to a specific level, i.e. 20 bottles."

7 What is the "as-is process"?

8 A. That was a -- that was one of
9 Miranda's projects. I'm not familiar with
10 what she was reviewing there in total.

11 Q. Okay. So we showed that
12 document. We're talking about SOMs, the
13 suspicious order programs. And you were in
14 the same group. But this isn't something
15 that you have any understanding about, as-is
16 process?

17 A. Correct.

18 Q. Okay. And the SOM project that
19 she references, do you know what she's
20 talking about there? The SOM project?

21 A. I know that -- I know, in --
22 just in title only. I'm not familiar with
23 any of the work processes that went into
24 that.

25 Q. Now, you responded to her that

1 you don't receive those reports. You don't
2 get the cut reports. "We don't, largely due
3 to size."

4 And then you continue, "We were
5 told it was too big to email or get to us
6 electronically. Has that changed? We would
7 love to get it if that is the case. Greg."

8 Ms. Johnson works in the same
9 area as you? The same region of the country?

10 A. She does work here globally --
11 I mean from the home office. And she is
12 field facing.

13 Q. And do you know whether it
14 would have been -- do you have any
15 understanding of how large these reports are
16 that they couldn't be provided to you
17 electronically?

18 A. Well, within the context of
19 this, as we're sitting here today, this was
20 in reference -- and it -- or miscommunication
21 and a misunderstanding.

22 As she was communicating to me,
23 she was talking about one report. As I was
24 responding to her, I was thinking about
25 another report.

1 Q. What report were you thinking
2 about?

3 A. I was thinking of a top 25
4 report which is printed out by the logistics.
5 It's not an online computer.

6 Q. Why would you have loved to get
7 the top 25 report?

8 A. Because that would have been
9 another review, opportunity for us to review
10 and take that into consideration with some of
11 the other reports.

12 Q. Would you not have done the
13 same thing with cut reports?

14 A. As I stated, we were getting
15 the cut reports. I did not necessarily refer
16 to those as cut reports. Around this time,
17 Miranda was just getting acclimated with her
18 new role.

19 Q. So you were already getting cut
20 reports. There was confusion in your
21 response?

22 A. Correct.

23 Q. You had them already. So you
24 wrote back saying that you'd love to. You
25 thought they were too big to email. You

1 remember thinking about something completely
2 different?

3 A. Completely different.

4 Q. Mr. Beam, do you recall
5 participating in a Webex with Miranda Johnson
6 and Roxy --

7 MR. VARNADO: Object to form.

8 Q. (BY MR. ECKLUND) -- concerning
9 suspicious order monitoring evaluations and
10 where your assistance would be beneficial?

11 MR. VARNADO: Sorry.

12 THE WITNESS: I don't recall
13 that specifically.

14 Q. (BY MR. ECKLUND) Do you know
15 who Roxy is?

16 A. I do.

17 Q. Who is Roxy?

18 A. Roxy was a data manager and
19 analyst working and reporting to Miranda.

20 Q. And that's Roxy Reed?

21 A. That is Roxy Reed.

22 Q. Have you at any point in time
23 since 2015 provided assistance in connection
24 with suspicious order monitoring evaluation?

25 MR. VARNADO: Object to form.

1 THE WITNESS: We've conducted
2 additional due diligence.

3 Q. (BY MR. ECKLUND) What type of
4 due diligence have you conducted?

5 A. We have looked at additional
6 data points, and also did some eyes-on along
7 with some social media research.

8 Q. Anything else?

9 A. No, sir.

10 Q. What is an RTF form?

11 A. Can you put that in context?

12 Q. Unfortunately, I can't.

13 It's referenced in an email
14 that you sent. You wrote, "Is there a way to
15 mine the RTF forms to collect Rx comments
16 without having to drill into each incident
17 number. Is that what's contained in the RTF
18 form section?"

19 I'm trying to understand what
20 an RTF form is.

21 MR. VARNADO: Can you show him
22 the document, Counsel?

23 MR. ECKLUND: Sure. I'll put
24 it up on the screen.

25 THE WITNESS: Was there

1 additional communication on this
2 email?

3 Q. (BY MR. ECKLUND) Yeah, there
4 is. If you want the document, you can have
5 it.

6 A. Could I see that, please?

7 Q. Sure.

8 (Walmart-Beam Deposition
9 Exhibit 11, September 2017 email
10 chain. Subj: RE: Archer Question.
11 WMT_MDL_000007391-7394, was marked for
12 identification.)

13 Q. (BY MR. ECKLUND) This is going
14 to be marked as Exhibit 11.

15 The second-to-the-last page is
16 your email.

17 MS. HOSMER: Can you read the
18 Bates numbers?

19 MR. ECKLUND: It starts at
20 7391.

21 Q. (BY MR. ECKLUND) So what's an
22 RTF form? That's what I'm after. I mean, it
23 appears to be refusal-to-fill forms.

24 A. Is that what this is
25 referencing? Oh, refusal-to-fill forms.

1 Q. Now, in your role within asset
2 protection, did you consider or complete
3 refusal-to-fill forms?

4 A. No.

5 Q. That's not something you used
6 in your role?

7 A. It is not something that we
8 completed.

9 Q. Okay. Is it something you
10 considered?

11 Aside from not completing them,
12 is it something that you considered?

13 A. It is something that at this
14 particular point we did not have access to.
15 So it is something we want to explore to
16 determine the value of that.

17 Q. So fair to say prior to
18 September 12th, 2017, refusal-to-fill forms
19 were not forms that you would have considered
20 in your role within asset protection?

21 A. That is correct.

22 Q. Because they weren't provided
23 to you?

24 A. They weren't provided.

25 Q. Okay. Just going to the

1 refusal-to-fill form, I do apologize. This
2 is the font size and as big as it was
3 provided to us.

4 Within the refusal-to-fill form
5 from 2017, it's got type of refusal counts.
6 Altered prescription, forged prescription,
7 unable to resolve red flags, home office
8 blocked prescriber, blanket refusals.

9 Do you see that? It's in the
10 refusal metrics.

11 And then you can see it again
12 in the counts. Refusal-to-fill count and
13 refusals by type, reason for refusal, altered
14 prescription, forged prescription, unable to
15 resolve red flags, blanket refusal.

16 Do you see that?

17 A. I see the right column clearly,
18 the left column less clearly.

19 Q. Okay. Would the forged
20 prescriptions have been something that you
21 would have wanted to have access to in your
22 role in asset protection?

23 You talked earlier about
24 forgeries.

25 A. It is something that we had --

1 at this time we had asked for. We did not
2 know this existed --

3 Q. Okay.

4 A. -- prior to that.

5 Q. And I'm asking, would those
6 forms have been useful to you in your role in
7 asset protection as concerns forgeries and
8 other preventions of theft and loss of
9 controlled substances?

10 MR. VARNADO: Object to form.

11 THE WITNESS: Potentially.

12 Q. (BY MR. ECKLUND) And why do you
13 believe those would have been potentially
14 useful to you?

15 A. As those were loaded in this
16 particular system, those are not determined
17 to be your -- proven to be forgeries at that
18 point.

19 This is an assessment.

20 Q. So these aren't necessarily
21 closed investigations? These are just
22 beliefs at this point?

23 A. These are forms that are
24 completed by operations. Not by our team.

25 Q. Okay. So you're not sure

1 whether the 1,820 forged prescriptions were
2 in fact investigated and ultimately found by
3 operations asset protection to be forgeries?

4 A. I do not know that.

5 Q. Do you see at the top within
6 health and wellness compliance practice just
7 below that you have "Add new incident.
8 Search incidents, search DEA 106 filings.
9 Search drug repository. Search facilities.
10 Show off facilities."

11 Do you see that?

12 A. I do.

13 Q. Were you able to search DEA 106
14 filings at this time?

15 A. Not using this tool.

16 Q. You were able to do it using a
17 different tool?

18 A. We were communicating with our
19 practice compliance partners who would send
20 us that list.

21 Q. So you would communicate with
22 people within the compliance group, and they
23 would use this RTF database and generate you
24 a list?

25 A. I don't know where the list

1 came from. Whenever we got it, it was a
2 list.

3 It did not have any indication
4 nor was there anything that would reveal
5 where that particular list came from.

6 Q. So you don't know how it was
7 created. You just know if you asked for the
8 list, you got the list?

9 A. Correct.

10 Q. And it came from compliance?

11 A. Correct.

12 Q. And the same thing for
13 searching incidents. If you wanted
14 information about incidents that compliance
15 had picked up, you could request the
16 information and they could give you a list?

17 A. If there were incidents -- we
18 were not aware of those particular -- or what
19 was contained in those particular lists at
20 that point in time.

21 As we communicated with
22 practice compliance, they would share
23 whatever information they had knowledge of.

24 Q. Okay. If you'd go to the page
25 bearing 7392. It's a screenshot. It says

1 "Enterprise, governance, risk and
2 compliance."

3 You weren't a part of the
4 enterprise, governance, risk and compliance
5 group, were you?

6 It's on the right-hand side.

7 A. Enterprise, governance -- oh.

8 At that particular -- I was not
9 a part of that particular group that was --
10 that had access to all of this data in this
11 tool.

12 Q. Okay. So all of this data and
13 all of this tool was not something that you
14 had access to?

15 A. Correct.

16 Q. And if you wanted to get
17 information from this tool, you'd have had to
18 specifically ask for it?

19 A. I would have had to have
20 obtained that information from our compliance
21 partners.

22 Q. Okay. Now, in the email on the
23 first page, Roxy Reed wrote you about Archer.
24 She talks about Archer questions. She said,
25 "I swore that we confirmed access in our

1 meeting a month or so ago. It looks like you
2 should definitely be able to see SOM. Let me
3 review. Can I impersonate you? If you are
4 working in Archer, it may kick you out."

5 Do you recall what the
6 questions were concerning Archer at this
7 point?

8 A. At this point we were obtaining
9 access. GI was obtaining access to Archer.

10 Q. What is GI?

11 A. Roxy --
12 Global investigations.

13 Q. Thank you.

14 A. My apologies.

15 Roxy Reed was the -- one of the
16 administrators of Archer. So it was through
17 her that we were obtaining that access.

18 She had to set us up in the
19 system.

20 Q. Okay. And then, in your
21 response, you wrote, "Sorry for the delay,
22 Roxy. Yes, please do. We might have to do
23 the same thing for several of the people on
24 the team as well."

25 What team members were you

1 thinking of that might need access to Archer?

2 A. Our analyst group.

3 Q. Okay. Anybody else?

4 A. And our investigators.

5 Q. How many analysts and how many
6 investigators were you thinking? Just
7 numbers. Broad brush.

8 A. The entire group. So it would
9 have been five analysts.

10 Q. And how many investigators?

11 A. Six investigators at that time.

12 Q. And there's no overlaps, so
13 it's 11 people?

14 A. Correct.

15 Q. Okay. Thank you. And none of
16 those 11 people prior to September of 2017
17 had access to Archer?

18 A. Correct.

19 Q. Okay.

20 A. Not that component of Archer.
21 Archer is a big system.

22 Q. So not the SOM portion of
23 Archer?

24 A. Correct.

25 Q. Okay. And they would not have

1 had access to the RTF forms?

2 A. Correct.

3 Q. Okay.

4 (Walmart-Beam Deposition

5 Exhibit 12, 9/28/17 email from Brandi

6 Williamson. WMT_MDL_000030095-30114,

7 was marked for identification.)

8 Q. (BY MR. ECKLUND) I'm going to
9 give you a fairly lengthy exhibit. And what
10 I'd ask you to do, in the interest of time,
11 is just to peruse the bold tops of the pages.

12 Are your eyes okay?

13 A. Yes. I just had to adjust.

14 Q. Okay. Again, if you need a
15 break, let me know.

16 The email is not as important.

17 You see it was sent from Brandi Williamson to
18 you September 28, 2017. Bears Bates stamp
19 30095.

20 The first page is privileged.

21 I want us to focus on some of these elements.

22 So the SOM incident process.

23 That's on something that involved you. It's
24 at page 30099.

25 Does this involve you at this

1 time?

2 A. Oh, no. No, sir.

3 Q. Okay. And the Archer reports
4 process, did that involve you?

5 A. It did not.

6 Q. Both portions, DEA incident
7 reports and also blanket refusal-to-fill
8 report.

9 A. Correct.

10 Q. And then also the next page,
11 refusal-to-fill reports. So this does not
12 involve you. We just talked about this.

13 A. Correct.

14 Q. And then we've got what appears
15 to be health and wellness controlled
16 substances team process documentation.

17 Were you involved in the
18 McKesson threshold report?

19 A. I was not at this point.

20 Q. SOM evaluations?

21 A. No.

22 Q. And what is Candice? Is
23 Candice a person?

24 A. I don't know, to be honest.

25 Q. All right. Supply logics

1 evaluations. Were you involved in that?

2 A. Only in review.

3 Q. How would you be involved in
4 the review?

5 A. Of supply logics tool? How
6 they used evaluations or how they used supply
7 logics in this process, I can't speak to.
8 I'm not aware of it.

9 Q. Okay. But I'm asking the
10 specifically within health and wellness
11 controlled substances team process.

12 A. Yeah.

13 Q. Were you involved in their
14 supply logics evaluations, not supply logics
15 evaluations within operations asset
16 protection?

17 A. No.

18 Q. DEA information request. Did
19 you ever respond on behalf of the controlled
20 substances team to the DEA concerning
21 controlled substances?

22 A. No.

23 Q. "Know your customer" updates?

24 A. No.

25 Q. Are you familiar with "know

1 your customer" obligations?

2 A. I'm not -- no.

3 Q. Okay. Prescriber blocks?

4 A. I was not a part of it.

5 Q. Humana controlled substances
6 usage notification. And again, it looks like
7 it's handled by someone, a computer program
8 referred to as Candice.

9 A. I'm not a part of that.

10 Q. Okay. McKesson threshold
11 reports?

12 You were not involved in those.
13 Did you ever consider any of them?

14 A. We had reviewed them initially,
15 but no.

16 Q. Suspicious order monitoring
17 evaluations, SOM evaluations. We talked
18 earlier about orders of interest, suspicious
19 orders and appropriate orders. You testified
20 that that wasn't something you dealt with?

21 Supply logics. We talked about
22 this.

23 So it appears you were not
24 involved in any of the processes that are
25 described in what has just been marked as an

1 exhibit. Is that fair?

2 A. That is fair.

3 Q. And specific as to the health
4 and wellness compliance portion of Walmart?

5 A. Yes, sir.

6 Q. Mr. Beam, what's RILA?

7 MR. VARNADO: Object to form.

8 Q. (BY MR. ECKLUND) I'll ask a
9 different way.

10 Mr. Beam, what's the Retail
11 Industry Leaders Association?

12 A. That is -- as I understand it,
13 that is the -- those are just a
14 conglomeration of retail outlets that discuss
15 retail sales in general.

16 Q. Okay. And are you actively
17 involved in RILA?

18 A. No.

19 Q. Okay.

20 Do you recall presenting on
21 behalf of Walmart at a RILA meeting held in
22 Washington, DC February 21st through the 22nd
23 of 2018?

24 A. I do not recall having a
25 meeting there. I remember a meeting being

1 scheduled, but subsequently cancelled.

2 Q. Do you know why the meeting was
3 cancelled?

4 A. It was cancelled by my
5 immediate supervisor. And it was timing, and
6 time of year, and other business
7 requirements.

8 Q. Okay. So is it your
9 understanding that the meeting did not take
10 place without you? At all? Or that you did
11 not attend the meeting and it may have taken
12 place?

13 A. It did not take place with
14 Walmart participating.

15 Q. Okay.
16 Do you know whether the meeting
17 took place?

18 A. That part, I do not know.

19 Q. Okay.
20 But nobody provided you any
21 presentation summaries, email correspondence,
22 "You missed a great meeting. This is what we
23 talked about"?

24 A. No.

25 Q. In your role within asset

1 protection, did you do work on behalf of both
2 Walmart and Sam's Clubs, or only Walmart?

3 A. Investigative work, we did for
4 both.

5 Q. Okay. And there are no
6 distinguishing features or attributes of
7 investigation concerning Sam's Club that
8 differed from what you would do for Walmart;
9 correct?

10 A. That is correct.

11 Q. The process is the same? The
12 workload would have been the same? The
13 analysis that you would undertake would be
14 the same? The five analysts, the six
15 investigators, those are the same people?

16 A. That would be correct.

17 Q. Okay.

18 (Walmart-Beam Deposition
19 Exhibit 13, September 2015 email
20 chain. Subj: RE: SOM Evaluation
21 Notifications. WMT_MDL_000016816, was
22 marked for identification.)

23 Q. (BY MR. ECKLUND) Mr. Beam,
24 you've been handed an exhibit bearing Bates
25 stamp 16816. It's a one-page email from

1 Miranda Johnson to you with your response to
2 Miranda Johnson, Roxy Reed, and Gary Smith.

3 Or Smith, depending on how he
4 pronounces his last name. I'd like to direct
5 your attention to the original email sent by
6 Ms. Johnson. "We've started sending out
7 notifications to ops leadership."

8 Who is ops or ops leadership?

9 A. That is operations leadership.
10 That is going to be the folks who manage
11 processes in execution in the field.

12 Q. And is that part of your
13 department? Is that part of logistics?

14 A. No. Operations is its own
15 division.

16 Q. It's a stand-alone division?

17 A. Yes, sir.

18 Q. Okay. And is Gary -- is it
19 Smith or Smith?

20 A. Smith.

21 Q. Is Gary Smith involved in the
22 operations department? Or division?

23 A. No, sir. Gary Smith is an
24 investigator on my team.

25 Q. Okay. So Ms. Johnson wrote,

1 "We have started sending out notifications to
2 ops leadership" -- operations leadership,
3 "when we began a SOM evaluation (at the
4 practice compliance level). I have asked
5 Roxy to start copying you on these so you
6 have visibility when" -- I suspect she meant
7 "begin an evaluation." Not "being."

8 Spell check would not have
9 picked that up.

10 Do you see that?

11 A. I do.

12 Q. Okay.

13 Did you ask for visibility of
14 the evaluations they were conducting for the
15 SOMs?

16 A. At this time, I did not.

17 Q. Do you have an understanding of
18 why Ms. Johnson wanted you to have visibility
19 of the SOM evaluations?

20 MR. VARNADO: Object to form.

21 THE WITNESS: As I'm sitting
22 here today, in front of you, I cannot
23 recall the substance, or the context
24 of these two pieces of communication.

25 Q. (BY MR. ECKLUND) Okay. Well,

1 if you look at the top, you wrote back,
2 "Great. We will start a process of reviewing
3 in the background and coordinate with you
4 both on anything we find that might be
5 relevant to the review."

6 Do you recall ever sharing with
7 Ms. Johnson or Ms. Reed anything that you
8 found relevant?

9 MR. VARNADO: Object to form.

10 THE WITNESS: I don't recall.

11 Q. (BY MR. ECKLUND) And you wrote
12 in the plural, "We," so there's a possibility
13 that perhaps Mr. Smith had provided some
14 relevant information to Ms. Johnson and
15 Ms. Reed.

16 If Mr. Smith had done so, would
17 he have copied you on the correspondence?

18 MR. VARNADO: Object to form.

19 THE WITNESS: I don't -- I
20 can't answer specifically.

21 Q. (BY MR. ECKLUND) Any reason to
22 believe, sitting here today, that anyone,
23 either you or Mr. Smith or any of your other
24 investigators, provided information that
25 might have been relevant to their review

1 after your own process of reviewing the
2 background in the SOM evaluations?

3 MR. VARNADO: Object to form.

4 THE WITNESS: I have no reason
5 to believe that.

6 MR. ECKLUND: Okay.

7 Q. (BY MR. ECKLUND) And if you
8 had done so, that would have been documented?
9 There would have been an email or some other
10 documentation provided to Ms. Reed and
11 Ms. Johnson for their consideration?

12 A. There would have been an email.

13 Q. Okay. It would not have been a
14 telephone phone call, saying, "Hey, I need
15 you to turn to this page," long conversation,
16 nothing written down. It would have been
17 documented.

18 A. Correct.

19 Q. Okay. So fair to say that the
20 absence of the document would be the absence
21 of occurrence?

22 MR. VARNADO: Object to form.

23 THE WITNESS: I do not recall
24 any episodes.

25 MR. VARNADO: We've been going

1 about another hour and 15. Take
2 another break.

3 MR. ECKLUND: Sure.

4 VIDEOGRAPHER: 3:56. We are
5 off the video record.

6 (Recess taken, 3:57 p.m. to
7 4:05 p.m.)

8 VIDEOGRAPHER: 4:05. We are on
9 the video record.

10 Q. (BY MR. ECKLUND) Mr. Beam, do
11 you have any recollection of events in 2009
12 concerning recordkeeping violations within
13 Walmart's Texas pharmacies?

14 MR. VARNADO: Object to form.

15 THE WITNESS: I don't have
16 recollection of specifics of that.

17 Q. (BY MR. ECKLUND) Just
18 generally, do you have any recollection that
19 it even happened?

20 A. I don't have a recollection of
21 that specifically.

22 Q. We're going in circles. Do you
23 have any --

24 A. I have no recollection of that
25 occurring in Texas.

1 Q. General or specific, you have
2 no recollection, no memory of a recordkeeping
3 violation involving Walmart's pharmacies in
4 Texas in or around 2009?

5 I can share with you some
6 additional details that may help you.

7 A. Please.

8 Q. So it's my understanding that
9 the pertinent authorities alleged during a
10 2006 accountability audit that "Five Walmart
11 and Sam's Club pharmacies in the southern
12 district of Texas failed to provide invoices
13 for controlled substances, and failed to
14 timely file records indicating loss or theft
15 of drugs to the DEA.

16 "And that the authorities
17 further allege that Walmart violated the
18 Comprehensive Drug Abuse Prevention and
19 Control Act by failing to provide those
20 documents."

21 Do you have any recollection,
22 now, of some of that history of the events
23 concerning the 2006 accountability audit or
24 the payment of any fines by Walmart
25 concerning recordkeeping violations at these

1 pharmacies in the southern district of Texas?

2 A. It does not ring any bells.

3 Q. Would those records have been
4 created by your department, operations asset
5 protection, or a different department or
6 division within Walmart?

7 MR. VARNADO: Object to form.

8 THE WITNESS: They would not
9 have been created by our department.

10 Q. (BY MR. ECKLUND) Okay. Given
11 that the allegations concerned failure to
12 provide invoices for controlled substances
13 and to timely file records indicating loss or
14 theft of drugs to the DEA, would any of your
15 investigators or analysts been involved in
16 the analysis of the loss or theft of drugs?

17 MR. VARNADO: Object to form.

18 THE WITNESS: It was related to
19 an investigation.

20 Q. (BY MR. ECKLUND) So if there
21 was no investigation, there would have been
22 no analysis within your group?

23 A. Not within our group, correct.

24 Q. Okay.

25 And fair to say, since you have

1 no recollection of these events, you also
2 have no recollection of any attempts or
3 efforts to improve the systems in place
4 within Walmart to prevent these types of
5 recordkeeping violations from occurring in
6 the future?

7 A. That -- I do not.

8 I have no recollection of
9 those.

10 Q. And if that had happened, there
11 would be documents concerning the changes
12 that were implemented to prevent those
13 recordkeeping violations?

14 MR. VARNADO: Object to form.

15 THE WITNESS: I can't speak to
16 that. I was not part of it.

17 Q. (BY MR. ECKLUND) Well, not
18 just a part of it. You don't recall if it
19 ever happened?

20 A. Correct, I don't.

21 Q. Mr. Beam, you can take your
22 time to look through this document. It will
23 likely be the last exhibit we'll mark today.

24 (Walmart-Beam Deposition

25 Exhibit 14, September 25 email chain. Subj:

1 Significant Compliance Issues,
2 WMT_MDL_000047185-47187, was marked for
3 identification.)

4 [Document review.]

5 MS. HOSMER: Can you give us
6 the Bates number?

7 MR. ECKLUND: Sorry, did you
8 ask for the Bates range?

9 MS. HOSMER: I did.

10 MR. ECKLUND: 47185.

11 THE WITNESS: Okay.

12 Q. (BY MR. ECKLUND) Okay. Let's
13 start with the email sent by Ms. Harris.
14 There are a number of individuals that were
15 included on this email, including Dave
16 Ferguson, Beth Schommer, Richard Leahy,
17 Ronetta Francis, in compliance, James Langman
18 and Frank Yiannas?

19 A. I presume that is correct. I'm
20 not familiar with that name.

21 Q. And Sonie Hilger.

22 Looking at those names, are any
23 of those individuals within your department
24 or division, operations asset protection?

25 A. No.

1 Q. If you look above -- well,
2 let's start with just the subject line. The
3 subject is "Significant compliance issues."

4 "Please let me know by close of
5 business today if you have a significant
6 compliance issue that would rise to the level
7 of notifying the audit committee. The agenda
8 that I have for meeting on Thursday for now
9 includes an update on employment compliance,
10 and an update on conflict minerals."

11 I suppose that was intended to
12 mean "conflict materials," but perhaps I'm
13 mistaken.

14 "If you have any additional
15 updates, please send an email with the
16 subject matter, a brief summary of the issue,
17 potential impact to Walmart, compliance
18 strategy.

19 "Going forward, we'll do this
20 via a share port site with a template for you
21 to complete as we discussed in our staff
22 meeting."

23 I'm confident that you were not
24 included in the staff meeting because this
25 was in the compliance group.

1 But I do have some questions
2 about notifications to the audit committee.

3 Do you know whether they're
4 referring to operations audits and asset
5 protection audits, or whether they're talking
6 about logistics and compliance audits?

7 A. I'm not familiar with what was
8 reported to the board in the audit committee.

9 That was -- that was
10 information that Jim Langman was collecting
11 across several different work streams.

12 Q. Does your group conduct audits?

13 A. We do conduct audits.

14 Q. Do you conduct audits
15 concerning compliance issues?

16 A. We conduct audits on controlled
17 substances related to theft, or process and
18 procedures.

19 And, I mean, nothing specific
20 to compliance issues.

21 Q. What types of processes and
22 procedures would you audit?

23 A. Controlled substance receiving,
24 controlled substance processing.

25 And in the store level.

1 Q. When you say "receiving," what
2 do you mean by "receiving"?

3 A. Meaning our -- whenever those
4 drugs are delivered to the store, are the
5 pharmacy staff receiving those particular
6 drugs and are they accounting for that as
7 does the box and delivery mechanism appear to
8 be tampered with?

9 And are they put away in a
10 timely fashion?

11 Q. So delivery by the truck to the
12 pharmacy confirming that the bottles haven't
13 been opened or manipulated so that a bottle
14 that's supposed to have 90 tablets, has 200,
15 or the box has been opened as evident by the
16 tape and certain other materials sticking out
17 and haphazardly retaped.

18 You're looking for indications
19 that somebody was manipulating or opening or
20 toying with, tampering with drugs being
21 delivered?

22 A. That is correct.

23 Q. Okay.

24 And then processing. That's
25 confirming that what was received is what was

1 ordered.

2 A. According to the information we
3 have in front of us, yes.

4 Q. Okay. So you didn't get too
5 many pills. You didn't get too few. You got
6 what you asked for. If you wanted oxycodone,
7 you got the oxycodone. If you ordered
8 hydrocodone, you got the hydrocodone. There
9 was no confusion, you didn't get the wrong
10 codone.

11 A. Correct.

12 Q. Did you have any involvement in
13 employment compliance? We talked earlier
14 about good people who may have made bad
15 decisions. Those were your terms?

16 A. Yes. That part, I've never --
17 I've never had discussions around employment
18 compliance.

19 Q. So it didn't involve you.

20 A. No.

21 Q. Okay. If we go above,
22 James Langman sends an email to George
23 Chapman and Julie Stroud.

24 "George, please fill this out
25 to the C-II strategy we have in place via

1 quantity limits" -- and that was the cutting
2 we've talked about throughout the day,
3 cutting the bottles -- "and the updates that
4 Brad Nelson is involved in with the upgrade
5 of the C-II warehouse and how this protects
6 us from the recent CVS and Walgreens DEA
7 actions against their licenses. Thanks, Jim.

8 "Julie, should any of yours go
9 on this? Thanks, Jim."

10 So he continued on.

11 I want to ask you a couple of
12 questions.

13 In 2012, were you aware of the
14 CVS and Walgreens DEA actions?

15 A. I was aware of what was in the
16 public media.

17 Q. Did you take any steps to
18 improve, enhance, or change your processes or
19 procedures in light of those?

20 MR. VARNADO: Object to form.

21 Q. (BY MR. ECKLUND) Public media
22 reviews that you reviewed?

23 MR. VARNADO: Same objection.

24 THE WITNESS: Nothing, other
25 than what we were discussing

1 previously.

2 And that would have been when
3 the AT was -- we were continuing to
4 develop that program as much as
5 possible.

6 Q. (BY MR. ECKLUND) Were you
7 concerned that you were not protected from a
8 potential DEA action in or around 2012
9 because of the processes that you had in
10 place at the time?

11 MR. VARNADO: Object to form.

12 THE WITNESS: I couldn't -- I
13 couldn't answer that in terms of what
14 I was feeling and thinking at that
15 time.

16 Q. (BY MR. ECKLUND) James Langman
17 was concerned about it, though?

18 MR. VARNADO: Object to form.

19 Q. (BY MR. ECKLUND) He was
20 concerned that they needed to take steps to
21 protect themselves in light of the recent CVS
22 and Walmart DEA actions. Do you see that?

23 MR. VARNADO: Object to form.

24 THE WITNESS: I see

25 Jim Langman's -- or James Langman's

1 email to George, but I can't -- I
2 can't interpret that with any degree
3 of certainty.

4 Q. (BY MR. ECKLUND) Okay. And in
5 light of that email, no one, not Jim or
6 James Langman, George Chapman or
7 Julie Stroud, reached out to you and asked if
8 there was anything your department or
9 division could do to assist them in further
10 protecting Walmart from DEA actions in light
11 of the recent CVS and Walgreens loss of
12 licensures -- or actions taken against their
13 licenses?

14 MR. VARNADO: Object to form.

15 THE WITNESS: They did not
16 reach out anything beyond what we've
17 already discussed with DAT.

18 Q. (BY MR. ECKLUND) If you can go
19 to the preceding page. At the bottom, it's
20 compliance strategy.

21 It talks about "Asset
22 protection, in-house review, purchase across
23 all pharmacies was completed."

24 Is that something that was
25 conducted by your group?

1 A. Our group provided some
2 shipment numbers for the larger review.

3 Q. Did you do anything else
4 besides providing shipment numbers?

5 A. That was it.

6 Q. Did you conduct any type of a
7 warehouse review?

8 A. We did not.

9 Q. Okay. Do you know who did?

10 A. I do not.

11 Q. Do you know where the data came
12 from for asset protection?

13 A. Oh.

14 MR. VARNADO: Object to form.

15 Q. (BY MR. ECKLUND) So you
16 provided shipment information?

17 A. Correct.

18 Q. Where did those numbers come
19 from?

20 A. Those numbers came from
21 Teradata.

22 Q. This continues, "Policy change
23 was implemented to require manage checking of
24 oxycodone prescriptions within the state's
25 prescription monitoring program if the state

1 has an active program."

2 Are you familiar with
3 prescription monitoring programs at the state
4 level?

5 A. I'm familiar that they exist.

6 Q. Okay. Do you consider state
7 prescription monitoring programs in
8 connection with your work in asset
9 protection?

10 A. We do not have access to those.

11 Q. I'm not asking whether you have
12 access to the state's underlying computer
13 systems, just that they have policies or
14 programs that they've implemented to try and
15 better protect the public in their -- within
16 their geographic bounds. I'm asking whether
17 you've considered those changes. For
18 example, if a state says, We're going to take
19 these steps or measures to prevent
20 over-dispensing of oxycodone -- you're
21 talking about oxycodone here -- let's limit
22 to 30 pills, as opposed to whatever the
23 doctor may have prescribed.

24 You've cut bottles before.

25 Were you also considering in asset protection

1 reducing the number of pills provided to an
2 individual patient in accordance with any
3 state PMP?

4 MR. VARNADO: Object to form.

5 THE WITNESS: That is outside
6 of our scope. That is not a decision
7 we would have made.

8 Q. (BY MR. ECKLUND) And you also
9 wouldn't have considered daily limit that any
10 state PMP would have implemented?

11 MR. VARNADO: Object to form.

12 THE WITNESS: That is, again,
13 outside of our scope.

14 MR. ECKLUND: Okay.

15 Q. (BY MR. ECKLUND) And it's also
16 fair to say you probably wouldn't have
17 considered any state changes concerning the
18 payment for oxycodone or other prescription
19 opioids with cash and little or no doctors'
20 engagement or involvement? And I'm thinking
21 specifically about those pain clinics that
22 were referenced in some of the documents that
23 you had found perusing the internet.

24 A. Would we have considered the
25 state limitations? That is something that we

1 have no authority or ability within the
2 company to accept or not accept.

3 Q. It continues, "Asset protection
4 conducts controlled substance audits on any
5 location that tries to order more than the
6 allotted amount of controlled substances each
7 week."

8 Do you see that?

9 A. I do.

10 Q. So these are the -- these are
11 those cut reports, the dailies and the
12 weeklies, and what people are looking at on a
13 monthly basis as well. Those are the reports
14 you're talking about. Those might trigger
15 audits? Or are they talking about something
16 else?

17 A. Those -- those are those
18 reports, from logistics AP.

19 Q. Okay. So these are logistics
20 reports, so the over 20 reports, the over 50
21 reports.

22 A. Correct.

23 Q. Any other reports?

24 A. No. Those are -- those are the
25 reports that would trigger those audits.

1 Q. So when somebody tries to order
2 more than the allotted amount of the
3 controlled substances, they get the flag, and
4 there may have been an audit.

5 A. Yeah, there's -- a couple of
6 those reports might have been -- I think
7 there was one we discussed earlier called a
8 405 report. But it's -- all of those are
9 flag reports.

10 Q. Did you personally conduct any
11 of those audits?

12 A. I did not personally.

13 Q. Did any of your analysts
14 conduct those audits?

15 A. They did.

16 Q. Do you know approximately how
17 many audits your analysts conducted?

18 A. I have -- I could not give you
19 a number.

20 Q. Do you know relatively speaking
21 what percentage of their time they devoted to
22 those audits? There's five analysts.
23 There's all the other obligations they have.
24 Is there a lion's share of their role in
25 responsibility and time in the office or is

1 this a smaller part of their day-to-day
2 operations?

3 MR. VARNADO: Object to form.

4 THE WITNESS: It was
5 all-inclusive as a part -- I mean as
6 the analysts' role. That's all they
7 do is conduct audits for various
8 reasons.

9 Q. (BY MR. ECKLUND) So all the
10 analysts did was conduct audits?

11 A. Mm-hmm. (Witness nods.) Pull
12 data and complete audits.

13 Q. Pull data and?

14 A. It's part of the process of
15 conducting an audit to pull data.

16 Q. So they just audit?

17 A. Mm-hmm.

18 Q. And the investigators are not
19 involved in these policies?

20 A. They're involved in reviewing
21 the results of the audit.

22 Q. So the audits would be
23 conducted by the analysts and the results of
24 the analysts's audit would be shared with the
25 investigators, all six? Or just one?

1 A. The one responsible for a
2 geographic area.

3 Q. And that investigator would
4 review the audit for that location and then
5 do what with it?

6 A. They would then determine if
7 there's a reason for opening an
8 investigation. Or if that is -- would
9 trigger an email telling the market director,
10 "You need to complete these forms answering
11 these questions."

12 Q. If you could turn to the first
13 page. There's an email from Phyllis Harris
14 to George Chapman and James Langman,
15 copying -- -- and it gets sent up to you for
16 the answer.

17 She's looking -- Phyllis Harris
18 is asking the question, "What's our average
19 number?"

20 And Phyllis Harris is the
21 senior vice president and chief compliance
22 officer at the time.

23 And Mr. Chapman sends along to
24 you, and he asks you if you could give the
25 current national average for

1 oxycodone 30 milligrams immediate release.

2 "Can you give me the average for 2011 for all
3 stores, then a breakout for all Florida
4 stores for 2011."

5 Do you see that?

6 A. I do.

7 Q. Do you respond with data pulls
8 that are specific to Walmart? It says, "I
9 believe we can help with that. Let me do
10 some data pulls."

11 Do you respond with data pulls
12 that are specific to Walmart?

13 A. Walmart and Sam's.

14 Q. You didn't consider any
15 competitor's data?

16 A. I don't have access to
17 competitors' data.

18 Q. You didn't consider any
19 information that McKesson may have had?

20 A. Like what?

21 Q. McKesson is a distributor. You
22 get some of your products from them. Could
23 you have reached out to them and asked them
24 "What's the average that you're seeing at
25 McKesson"?

1 MR. VARNADO: Object to form.

2 THE WITNESS: That would --

3 I've never reached out to McKesson to
4 ask about competitor information
5 specifically simply because McKesson
6 has made it known that we will not
7 discuss. You are our competitors --
8 or your competitors.

9 Q. (BY MR. ECKLUND) I apologize.
10 Did you purchase or acquire
11 data from any third-party vendor, for
12 example, IMS data or IQVIA data?

13 A. We did not, no. I mean, our
14 department.

15 Q. Did you have access to it
16 because another department purchased it?

17 A. We had access to some degree of
18 portal, on that portal, but nothing specific
19 in this context.

20 Q. The degree of the portal on
21 that portal. Okay. So I'm trying to
22 understand that. So the portal that you were
23 able to access, would it have shown
24 additional information about averages for
25 oxycodone? Or average numbers?

1 A. If a person was able to
2 navigate that portal when we had access to
3 it. You possibly could have dug that
4 information out, but there's no way to
5 validate that. And if I couldn't validate it
6 internally with the information we have, I
7 was not going to consider or use that.

8 Q. Okay. So Walmart might have
9 had additional analytical capabilities to use
10 that portal, but because the data within the
11 portal couldn't be validated independently
12 within Walmart, the data would not be
13 considered?

14 MR. VARNADO: Object to form.

15 Q. (BY MR. ECKLUND) By you.

16 A. By us.

17 Q. By you. And you're the one
18 responding with the answer.

19 MR. VARNADO: Object to form.

20 THE WITNESS: I'm responding
21 with this in terms of total
22 Walmart/Sam's Club.

23 MR. ECKLUND: Let's take a
24 five-minute break.

25 VIDEOGRAPHER: 4:28. We are

1 off the video record.

2 (Recess taken, 4:28 p.m. to
3 4:39 p.m.)

4 VIDEOGRAPHER: 4:39. We are on
5 the video record.

6 Q. (BY MR. ECKLUND) Okay.

7 Mr. Beam, I have a few questions and I just
8 wanted to make sure we have clear testimony
9 on these issues.

10 We talked earlier about the
11 drug diversion coordinators referenced in the
12 controlled substance monitoring program that
13 was in place between 2010 and 2014.

14 Do you recall which of your
15 analysts or investigators would have been
16 responsible for the Ohio region?

17 A. The drug diversion coordinators
18 were not a part of the Controlled Substance
19 Monitoring Program. They were a part -- they
20 were the investigators that were
21 investigating pharmacy incidents during that
22 time frame.

23 Q. So the -- do you know which of
24 the pharmacy -- so the pharmacy managers were
25 to forward the reports to the appropriate

1 drug diversion coordinators for further
2 review. Do you recall which of the drug
3 diversion coordinators was responsible for
4 Ohio?

5 A. In 2009, I do not. Because we
6 rotate people as they transition off the team
7 and on the team, though sometimes get
8 shuffled around and different people will be
9 responsible for different geographic areas.

10 So when Travis Fought came on,
11 he may have replaced someone who was covering
12 Southeast and that person moved to perhaps
13 the Northeast.

14 Q. Were there reporting structures
15 or records that reflect to whom the reports
16 should have been forwarded for further review
17 throughout the entire period of time 2010
18 through 2014?

19 MR. VARNADO: Object to form.

20 THE WITNESS: None that I am
21 aware of.

22 Q. (BY MR. ECKLUND) Do you know
23 who would know if there were documents that
24 would reflect to whom these reports should
25 have been forwarded during the entire window

1 of time?

2 A. I don't.

3 Q. Mr. Beam, I'd like to direct
4 your attention back to Exhibit 1 at Bates
5 range 57344.

6 It's towards the middle.

7 It's from your 2017 annual
8 performance evaluation.

9 A. 344?

10 Q. Yes. 57344.

11 And I'm specifically interested
12 in the nine lines above the redacted
13 privilege box.

14 A. Yes, sir.

15 Q. Okay. What is ISD AGILE?

16 A. ISD is our information systems
17 development group, and the Agile Group is
18 a -- for lack of a better term, a quick
19 response group that is trying to align
20 projects across multiple departments so that
21 you don't have multiple projects going and
22 trying to accomplish the same thing.

23 Q. Was the ISD project focused on
24 diversion concerns for SOM?

25 A. During this time frame, that

1 would have been the DA team. Diversion
2 analytics program.

3 Q. Diversion analytics tool?

4 A. Yes, sir.

5 Q. And what is the diversion
6 analytics tool?

7 A. That was the tool that was
8 being programmed by Sysrepublic.

9 Q. And that's the one that didn't
10 work?

11 A. Correct.

12 Q. So that's the one that never
13 happened because they couldn't deliver as per
14 the contract.

15 So your team spent four hours
16 per week attempting to validate the process,
17 attempting to assure its accuracy and
18 attempting to ensure it's consistent, but it
19 didn't work. So you abandoned that?

20 A. We did. We decommissioned,
21 yes.

22 Q. Now, the contract was just
23 terminated or did you sue them for any
24 breach? Failure to deliver? Anything like
25 that?

1 A. I'm not aware of any actions as
2 a result of that.

3 Q. Were there any efforts to
4 identify an alternative vendor to try and
5 work with you on the development of a
6 diversion tool?

7 MR. VARNADO: Object to form.

8 Q. (BY MR. ECKLUND) Or adapt?

9 A. At this point, there was not.

10 Q. I'm talking since then.

11 A. Oh. So it's been -- we have
12 not reached back out to another outside
13 vendor.

14 Q. What about internally. Anyone
15 internally trying to develop a DAT?

16 A. We have analytics processes
17 through those programs that you had
18 highlighted earlier.

19 Q. Which programs are we talking
20 about?

21 A. The Alteryx and Tableau.

22 Q. Tableau and Alteryx.

23 A. Yes.

24 Q. Okay. Which brings us to the
25 remaining lines.

■ [REDACTED] [REDACTED]
■ [REDACTED]
■ [REDACTED]

4 So the analysts that are
5 described here, that's your team of analysts
6 or is that a different team of analysts?

7 A. That is --

8 MR. VARNADO: Do you know where
9 it is?

10 THE WITNESS: No. Our

■ [REDACTED] [REDACTED]
■ [REDACTED]
■ [REDACTED]
■ [REDACTED]
■ [REDACTED]
■ [REDACTED]

17 But it is just a broader
18 exposure on the larger group.

19 Q. (BY MR. ECKLUND) So help me

■ [REDACTED] [REDACTED]
■ [REDACTED]

22 A. Correct.

23 Q. Did they continue to report up
24 to you once that merger of the teams
25 happened, or did they report to someone else?

1 A. No, they reported to the senior
2 director of analytics.

3 Q. So they were no longer
4 reporting to you?

5 A. Correct.

9 health and wellness specific Tableau, were
10 they reporting to you or to the senior
11 director of analytics?

12 A. They were reporting to the
13 senior director of analytics at that time.

14 Q. And who was the senior director
15 of analytics at that time?

16 A. Fred Helm.

17 Q. I'm sorry, Fred?

18 A. Helm. H-E-L-M.

19 Q. Okay. Thank you.

[REDACTED]

24 What's a CAP Index?

25 A. I forget the acronym, but it is

1 an index scoring of risk based on area
2 reported police incidents.

3 Q. Okay. So it's considering law
4 enforcement information?

5 A. Correct.

6 Q. And how would Walmart acquire
7 or obtain the CAP Index data?

8 A. Several departments within the
9 company to include asset protection
10 operations also use that CAP Index score.
11 And that CAP Index score comes from a
12 third-party vendor.

13 Q. Do you know which vendor?

14 A. I do not.

15 Q. Do you have access to that
16 data?

17 A. I have access to information
18 that comes from that data.

19 Q. In what form do you have access
20 to that data?

21 MR. VARNADO: Object to form.

22 THE WITNESS: The information
23 would be the CAP Index score.

24 Q. (BY MR. ECKLUND) And you get
25 access to the CAP Index score in the Tableau

1 dashboard?

2 A. As it references here, I cannot
3 recall specifically how that CAP Index is a
4 part of that. Going back to the beginning,
5 they're continuing to add and take away data
6 and its elements. So the CAP Index, as it
7 relates here, that is -- that -- a lot of
8 this is information that was passed to me by
9 Fred, so I can't speak to what the specifics
10 are that they were obtaining from that.

11 Q. Okay. So the police incident
12 reports that are captured in the CAP Index
13 scores, that's not something that you would
14 consider in connection with your audits or
15 your investigations of thefts or loss of
16 controlled substances?

17 A. Yes. We have -- we have looked
18 at that --

19 Q. You have.

20 A. -- relative to burglary and
21 robberies. Because then you can capture
22 where else that is occurring there, whether
23 or not that particular location is at a high
24 risk.


25 Q. And beyond burglaries and

1 robberies have you considered CAP Index data
2 in connection with your investigations or
3 your audits?

4 MR. VARNADO: Object to form.

5 THE WITNESS: Not that I
6 recall.

7 Q. (BY MR. ECKLUND) It continues,

8 
9 What are controlled substance
10 inventory trends?

11 A. Those are the trends that we're
12 seeing as -- those are the investigative
13 results we're continuing to see.

14 Q. And DEA risk scores?

15 DEA risk scores?

16 A. I can't speak to the specifics
17 on that either.

18 Q. Okay. So fair to say it's also
19 not something that you would consider in
20 connection with your role in the company?

21 A. Well, it's not fair to say
22 that. As it is written here, I do not recall
23 the specifics around what that is.

24 Q. So you don't know what it is,
25 but it's possible you use it?

1 A. I don't know what it is, so I
2 can't say if we use it or not.

3 Q. Okay. You'd have to ask
4 Fred Helm?

5 A. I would have to go back and do
6 some research on that.

7 Q. Okay. And it's also possible
8 that someone in compliance might be using it
9 to answer questions you may have, would be
10 using those DEA risk scores to provide you
11 answers?

12 MR. VARNADO: Object to form.

13 THE WITNESS: I can't respond.
14 I really don't know at this point.

15 Q. (BY MR. ECKLUND) Okay. Now,
16 the associate's comments, those are written
17 by you; correct?

18 A. They are.

■ ■ ██
■ ██
■ ██
■ ██
■ ██
■ ██
■ ■ ██
■ ██

[REDACTED]

[REDACTED]

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[REDACTED]

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[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

14 Q. So it's a collaborative process
15 that leads to the completion of your
16 comments?

17 A. Mm-hmm. (Witness nods.)

18 Q. Okay. With whom did you
19 collaborate in creating this evaluation?

20 MR. VARNADO: Object to form.

21 THE WITNESS: I don't recall
22 specifically, but there would have
23 been multiple.

24 Q. (BY MR. ECKLUND) Multiple
25 people?

1 A. Yeah.

2 Q. Okay. And you continue to
3 produce heat maps of most vulnerable areas.
4 And again, that's concerning burglary and
5 robbery specifically? The heat maps? Or
6 something broader?

7 Don't look at him.

8 A. I'm thinking.

9 Q. Okay.

10 A. It would have been all theft
11 regarding -- and to include burglaries and
12 thefts.

13 Q. Okay.

14 So thefts, burglaries, and
15 thefts again, you said?

16 So -- and robberies?

17 A. Robberies and burglaries and
18 thefts.

19 Q. Okay. And nothing beyond those
20 thefts, burglaries and robberies?

21 A. No.

22 [REDACTED]
23 you're talking about areas that are high
24 crime? Or are you talking about areas where
25 the security is not as robust?

■ ■ ■
2 recall today, those heat maps are saying this
3 is where our highest group activity is at
4 this particular point for all of that -- for
5 all thefts.

6 Q. So theft activities is what
7 you're looking at?

8 A. Yes.

9 Q. So you're not talking about a
10 potential lapse in security that needs to be
11 addressed. It hasn't been addressed yet.
12 There's a vulnerability. You're talking
13 about there are areas where there's higher
14 rates or higher percentages of theft,
15 burglary and robbery?

16 A. Correct.

17 Q. And those are the areas that
18 would be vulnerable as you were describing it
19 here.

■ ■
■ ■
■ ■
■ ■
■ ■
■ ■

■ [REDACTED]

2 A. Correct.

3 Q. Okay.

4 MR. ECKLUND: Mr. Beam, thank
5 you for your time today. I have no
6 further questions.

7 MR. VARNADO: No further
8 questions from Walmart.

9 VIDEOGRAPHER: 4:55 p.m. We
10 are off the video record. This
11 concludes the video deposition of
12 Greg Beam.

13 (Proceedings recessed at
14 4:55 p.m.)

15 --o0o--

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CERTIFICATE

I, DEBRA A. DIBBLE, Registered
Diplomate Reporter, Certified Realtime
Reporter, Certified Realtime Captioner,
Certified Court Reporter and Notary Public,
do hereby certify that prior to the
commencement of the examination, GREGORY BEAM
was duly sworn by me to testify to the truth,
the whole truth and nothing but the truth.

I DO FURTHER CERTIFY that the
foregoing is a verbatim transcript of the
testimony as taken stenographically by and
before me at the time, place and on the date
hereinbefore set forth, to the best of my
ability.

I DO FURTHER CERTIFY that pursuant
to FRCP Rule 30, signature of the witness was
not requested by the witness or other party
before the conclusion of the deposition.

I DO FURTHER CERTIFY that I am
neither a relative nor employee nor attorney
nor counsel of any of the parties to this
action, and that I am neither a relative nor
employee of such attorney or counsel, and
that I am not financially interested in the
action.

DEBRA A. DIBBLE, RDR, CRR, CRC
NCRA Registered Diplomate Reporter
NCRA Certified Realtime Reporter
Certified Court Reporter

Dated: 1/18/19

1 INSTRUCTIONS TO WITNESS

2
3 Please read your deposition over
4 carefully and make any necessary corrections.
5 You should state the reason in the
6 appropriate space on the errata sheet for any
7 corrections that are made.

8 After doing so, please sign the
9 errata sheet and date it.

10 You are signing same subject to
11 the changes you have noted on the errata
12 sheet, which will be attached to your
13 deposition.

14 It is imperative that you return
15 the original errata sheet to the deposing
16 attorney within thirty (30) days of receipt
17 of the deposition transcript by you. If you
18 fail to do so, the deposition transcript may
19 be deemed to be accurate and may be used in
20 court.

	ERRATA		
	PAGE	LINE	CHANGE
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1 ACKNOWLEDGMENT OF DEPONENT

2

3

4 I, GREGORY BEAM, do hereby certify
that I have read the foregoing pages and that
5 the same is a correct transcription of the
answers given by me to the questions therein
6 propounded, except for the corrections or
changes in form or substance, if any, noted
7 in the attached
Errata Sheet.

8

9

10

11

12

GREGORY BEAM

DATE

13

14

15 Subscribed and sworn to before me this
16 _____ day of _____, 20 ____.

17 My commission expires: _____

18

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20 Notary Public

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1	LAWYER'S NOTES		
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